

The Tobacco Control Environment: Ontario and Beyond

Ontario Tobacco Research Unit

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PREFACE

The Tobacco Control Environment: Ontario and Beyond is the first of four reports in this year's *Monitoring and Evaluation Series*. This first report provides contextual information for the monitoring and evaluation of the Ontario Tobacco Strategy (OTS), describing policies and programs currently in place in Canadian provinces and territories. Although programmatic activity is an important component of a comprehensive tobacco control program, this report primarily provides an overview of provincial and territorial policies. This decision is a result of the challenges in assessing programmatic activity in jurisdictions across Canada. A considerable amount of information is required to compare the reach, effectiveness, and impact of program initiatives. Unfortunately, this information is not always available from a jurisdiction. Although every effort has been made to be accurate, we have not attempted to comprehensively review all tobacco control policies and programs in the jurisdictions under examination. Rather, we have reported significant initiatives that, by comparison, inform us of where we stand in Ontario and where tobacco control might advance.

The full Monitoring and Evaluation Series for 2003-04 consists of:

Number 1: *The Tobacco Control Environment: Ontario and Beyond* – an environmental scan of policy and program initiatives across Canadian jurisdictions, which provides a context for what is happening in Ontario;

Number 2: *OTS Project Evaluations: A Coordinated Review* – a largely qualitative summary of accomplishments by OTS projects funded in 2003/2004;

Number 3: *Indicators of OTS Progress* – a presentation of quantitative data from a variety of surveys and other sources measuring recent progress in tobacco control in Ontario; and

Number 4: *OTS Progress and Implications* – a discussion of the results and implications of the findings in the previous three reports.

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The Ontario Tobacco Research Unit's monitoring and evaluation activities are conducted under the guidance of the unit's Monitoring and Evaluation Working Group, which includes all OTRU Principal Investigators. The Working Group is chaired by Tom Stephens, and Shawn O'Connor coordinates group activities.

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THE TOBACCO CONTROL ENVIRONMENT: ONTARIO AND BEYOND

In response to the tobacco epidemic, tobacco control has emerged as an integral public health measure in Ontario and in other parts of Canada. This response has centred on key tobacco control goals: protecting the non-smoking population from second-hand-smoke (SHS), facilitating smoking cessation among current smokers, and preventing the uptake of smoking. Across Canada, a wide range of policy and program initiatives have been put in place to address these key areas. This report provides an overview of some of the initiatives enacted by federal, provincial, and territorial governments, with emphasis on where Ontario sits in relation to leading jurisdictions.

The Burden of Tobacco and the Health Response

Cigarette Consumption and Smoking Prevalence

The health consequences of smoking are well documented and include a long list of cancers, cardiovascular diseases, respiratory diseases, reproductive effects, as well as other diseases and conditions. The 2004 U.S. Surgeon General's Report provides a comprehensive and detailed list of these diseases, identifying nine newly reported health conditions caused by smoking.¹ In Canada, smoking continues to be the leading cause of premature mortality, responsible for more than 47,000 deaths a year, including over 16,000 Ontarians.²

With the current smoking rate of 23% among the Canadian population in 2003, tobacco use continues to be a considerable public health concern (Table 1).³ From 2002 to 2003, however, national sales of cigarettes and cigarette equivalents fell almost 6% to a total of 1,526 per capita. Across Canadian jurisdictions, both smoking prevalence and tobacco sales varied quite considerably. In 2003, Ontario had the second lowest level of smoking prevalence and the fifth highest level of per capita tobacco sales among Canadian jurisdictions, unchanged from 2002. In 2003, current smoking rates ranged from 19% in British Columbia to 65% in Nunavut. The greatest declines in per capita sales of cigarette and cigarette equivalents were reported in New Brunswick, Nunavut, and Nova Scotia (16%, 15% and 11%, respectively). Ontario, Manitoba and Newfoundland reported modest reductions and Saskatchewan reported minimal reductions (less than 1%).

Tobacco Control Strategies

In 1999, the federal government implemented the *National Tobacco Control Strategy*, which provided a framework to respond to the tobacco epidemic in Canada.⁴ Nonetheless, most provinces and territories supplement the National Strategy with their own tobacco control programs (Table 2), which reflect regional tobacco control issues and local contextual factors. These programs vary on many levels including their relative strength and dimensions. In Ontario, the tobacco strategy is shaped and funded by the provincial government, but implemented and delivered by a coalition consisting of mainly non-governmental organizations (NGOs) and public health units. Three jurisdictions—New Brunswick, Prince Edward Island and Newfoundland—have tobacco strategies governed by coalitions, with joint participation from government, NGOs, and other interested stakeholders. No formal strategy does not mean an absence of policy or programmatic activity. In Saskatchewan, for instance, dedicated tobacco control stakeholders have introduced a number of high profile initiatives (e.g., banning point-of-sale displays, province-wide smoke-free legislation, etc).

Table 1: Current Smoking Prevalence and Per Capita Cigarette Sales in Canadian Provinces and Territories, 2003

Jurisdiction	Current Smoking (%) ⁱ	Total Sales 2003	Change in Total Sales 2002-03 (%)
Yukon	28	N/A ⁱⁱ	N/A ⁱⁱ
Northwest Territories	37	606	-8.0
British Columbia	19	1,162	-7.4
Nunavut	65	1,249	-14.9
Québec	26	1,437	-6.0
Manitoba	23	1,487	-4.5
Newfoundland	24	1,488	-4.1
New Brunswick	25	1,533	-16.3
ONTARIO	22	1,631	-4.7
Prince Edward Island	24	1,644	-9.3
Saskatchewan	24	1,671	-0.5
Nova Scotia	24	1,706	-10.6
Alberta	23	1,772	-6.2
CANADA (less ON)	23	1,461	-6.6
CANADA	23	1,526	-5.8

ⁱCurrent smoking = daily or occasional smoking, respondents aged 12+.

ⁱⁱData not reportable due to lack of 2002 data and incomplete 2003 sales data.

Note: Ordered by 2003 sales. Per capita total sales (age 15+) include cigarette and fine cut tobacco calculated in units of cigarettes (assuming 0.7g = 1 cigarette). Totals include domestic and imported sales.

Source: Current smoking based on Canadian Community Health Survey, Cycle 2.1, 2003.³ Sales data drawn from tobacco manufacturers' reports to Health Canada.⁵

Priority groups are not always formerly designated by a Strategy, though groups frequently mentioned include youth, Aboriginal peoples, and pregnant women. To varying degrees, the federal, provincial, and territorial strategies appear to address aspects of youth tobacco control issues. The federal government implemented a First Nations and Inuit Tobacco Control Strategy to address the higher rates of smoking in this population; six jurisdictions—Ontario, British Columbia, Alberta, Newfoundland, Northwest Territories, and Nunavut—further supplement an Aboriginal component in their tobacco strategies (Table 2). It is important to note that the Aboriginal proportion of the population fluctuates across Canada, from vast minorities in Prince Edward Island (1%) and Québec (1%) to a majority in the Northwest Territories and Nunavut (51% and 85%, respectively).

Table 2: Tobacco Control Strategies in Canadian Provinces and Territories, 2003-04

Jurisdiction	Tobacco Control Strategies	Responsibility for Implementation	Aboriginal Component (% Aboriginal Population)
British Columbia	✓	Government	✓ (4.4%)
Alberta	✓	Government	✓ (5.3%)
Saskatchewan			(13.5%)
Manitoba	✓	Government	(13.6%) ⁱ
ONTARIO	✓	Government	✓ (1.7%)
Québec	✓	Government	(1.1%)
New Brunswick	✓	Coalition	(2.4%)
Nova Scotia	✓	Government	(1.9%)
Prince Edward Island	✓	Coalition	(1.0%) ⁱⁱ
Newfoundland	✓	Coalition	✓ (3.7%)
Yukon	N/A	N/A	N/A (22.9%)
Northwest Territories	✓	Government	✓ (50.5%)
Nunavut	✓	Government	✓ (85.2%)
FEDERAL	✓	Government	✓ (3.3%)

✓ = Formal tobacco control program.

ⁱManitoba Aboriginal Health Unit in planning phase of needs assessment (A. Loughhead, August, 2004).

ⁱⁱAboriginal community involvement in Coalition including planning and priority setting (L. Shaffer, July 2004).

Source: Aboriginal Peoples of Canada, 2001 Census.⁶

Tobacco Control Funding

For the 2003-2004 fiscal year, funding allocations varied quite substantially across Canada (Table 3), with Ontario allocating approximately \$11.6 million, or \$0.96 per capita (excluding health unit funding). Among Canadian jurisdictions, Ontario ranked third in net annual funding, slightly behind Alberta (\$12 million) and substantially below Québec (\$35 million). Despite the high ranking for net annual funding, the per capita funding in Ontario was well below levels found in many other parts of Canada and leading U.S. jurisdictions: Maine, Delaware, Mississippi, and Arkansas. Ontario falls well below the \$5-\$16 (U.S. currency) per capita range recommended by the U.S. Centers for Disease Control and Prevention for large jurisdictions with populations over 7 million. Federally, Health Canada's tobacco control program was subjected to a series of funding cuts during the 2003-2004 fiscal year, and further budget cuts during the 2004-05 fiscal year have been made.⁷

Table 3: Per Capita Tobacco Control Funding in Canada and Select U.S. Jurisdictions, 2003-04

Select Jurisdictions	2003-2004 Funding (CDN\$)	Population	Per Capita Funding (CDN\$)
Nunavut	\$500,000	28,955	\$17.27
Northwest Territories	\$250,000	41,389	\$6.04
Québec ⁱ	\$35,000,000	7,467,626	\$4.69
Alberta	\$12,000,000	3,134,286	\$3.83
Nova Scotia	\$1,750,000	944,286	\$1.85
British Columbia	\$4,000,000	4,155,779	\$0.96
ONTARIOⁱⁱ	\$11,600,000	12,109,514	\$0.96
Newfoundland	\$450,000	531,145	\$0.85
Prince Edward Island	\$113,000	140,741	\$0.80
Manitoba	\$668,000	1,150,564	\$0.58
Saskatchewan	\$584,000	1,009,225	\$0.58
New Brunswick	N/A		N/A
Yukon	N/A		N/A
Total, less ON ⁱⁱⁱ (n=10)	\$55,315,000	18,603,996	\$2.97
Total ⁱⁱⁱ (n=11)	\$66,915,000	30,713,510	\$2.18

Maine	\$19,013,850,000	1,305,728	\$14.56
Delaware	\$13,244,130,000	817,491	\$16.20
Mississippi	\$26,488,260,000	2,881,281	\$9.19
Arkansas	\$24,259,050,000	2,725,714	\$8.90
California	\$118,148,130,000	35,484,453	\$3.33
Total States (n=50)	\$709,544,430,000	290,809,777	\$2.44

ⁱQuébec spent \$15 million of its \$35 million budget on nicotine replacement therapy.

ⁱⁱOntario's estimate excludes funding to the province's 37 Public Health Units due to unavailability of reliable data.

ⁱⁱⁱTotal excludes New Brunswick, Yukon, and Health Canada spending.

Note: Ordered by per capita spending. Prices in CDN\$ (Exchange rate US\$1=CDN\$1.331, March 31, 2004).⁸

Source: Nunavut – E. Levy (May 11, 2004); Northwest Territories – M. Wideman (May 12, 2004); Québec – F. Doucas (May 12, 2004); Alberta – L. Hagen (May 5, 2004); Nova Scotia – C. Cole (May 5, 2004); British Columbia – J. Boomer (May 3, 2004); Ontario – H. Bassirullah (May 27, 2004); Newfoundland – B. Squires (May 14, 2004); Prince Edward Island – L. Shaffer (July 26, 2004); Manitoba – A. Loughhead (August 9, 2004); Saskatchewan – T. Mengel (May 5, 2004); U.S. States – Campaign for Tobacco Free Kids;⁹ Statistics Canada, updated postcensal estimates, June 25, 2003;¹⁰ US Census Bureau, population, 2003 estimate.¹¹

TOBACCO CONTROL INITIATIVES

Protection from Second-Hand Smoke

Jurisdictional Legislation

The harmful effects of second-hand smoke (SHS) are a global concern and are well documented.^{12,13,14,15} Numerous jurisdictions have responded to this concern by mounting public health efforts to protect the public from SHS. For instance, Ireland and Norway have recently implemented nationwide laws banning smoking in restaurants, bars, and other workplaces.¹⁶ Since its enforcement in March 2004, the smoking ban in Ireland has been widely accepted and compliance is high.¹⁷ New Zealand has also adopted smoke-free laws, which come into effect in December 2004.¹⁶ In the United States, as of July 2004, six states – California, New York, Connecticut, Delaware, Maine, and Massachusetts – have implemented smoking bans in restaurants, bars, as well as in other workplaces.¹⁸ Rhode Island has passed a state-wide ban, which will be implemented March 2005.¹⁹

The federal government has long provided regulations to protect Canadians from exposure to SHS in federal workplaces and on commercial carriers such as ships, trains, and aircraft. Across Canada, a growing number of provinces and territories are implementing smoke-free legislation (Table 4). The *Tobacco Control Act* in Ontario outlines general provisions for smoking in specific places. No provincial smoke-free regulations have been established in Ontario; however, in November 2003, the Throne Speech from the Liberal Government announced their intention to make public places and workplaces smoke-free within three years.²⁰

In May 2004, the Workers' Compensation Board (WCB) in Nunavut and the Northwest Territories implemented the most comprehensive and restrictive smoke-free regulations in Canada to date. These regulations ban smoking from all worksites, including bars, restaurants, bingo halls, bowling alleys, and casinos. Designated smoking rooms (DSRs)ⁱ are not allowed nor is smoking around worksite entrances and exits. Smoke-free legislation in British Columbia is also regulated by the WCB, yet DSRs are permitted. Nova Scotia, Newfoundland, and Prince Edward Island have implemented provincial smoke-free regulations to reduce SHS exposure; however, exemptions provide only partial protection from SHS for individuals in these provinces (Table 4).

Manitoba, Saskatchewan, and New Brunswick have recently adopted province-wide smoke-free legislation (Table 4). Upon implementation, these provincial smoke-free laws will provide strong protection against SHS, providing 100% smoke-free regulations in all enclosed public places. Saskatchewan and Manitoba will not allow DSRs in public places, in addition to prohibiting smoking in stadiums and on outdoor patios. Furthermore, Saskatchewan will ban smoking in private clubs (Table 4).

ⁱ DSRs are only permitted where an individual lives within a worksite provided smoke does not enter the worksite.

Table 4: Smoke-Free Public Place Legislation in Canadian Provinces and Territories, 2004

Jurisdiction	Smoke Free	Date in Effect	Specification(s)
British Columbia	✓	05/2002	WCB regulates smoking in all workplaces including restaurants, bars, bingo halls, bowling alleys, and casinos; DSRs allowed
Alberta			Smoking restrictions only apply to government work sites; definitions and requirements for DSRs not specified
Saskatchewan	Passed	01/2005	Smoking prohibited (no DSRs) in all places where the public has access to including restaurants, bars, bingo halls, bowling alleys, private clubs, and casinos
Manitoba	✓	10/2004	Smoking prohibited (no DSRs) in all enclosed public places and indoor workplaces including restaurants, bars, stadiums, bingos, bowling, and casinos, excluding First Nations reserves and hotel rooms
ONTARIO			Smoking prohibited in certain places including hospitals, schools and colleges, day nurseries, pharmacies, financial institutions, stores, arcades, laundries, transit structures, hairdressing salons; exceptions to places not open to public; restaurants and bars exempt
Québec			Smoking prohibited only in public places accessed by youth; DSRs required in public places, not including restaurants and bars
New Brunswick	✓	10/2004	Smoking prohibited in enclosed public places and indoor workplaces, including restaurants and bars; smoking areas only allowed in group living facilities and hotel rooms
Nova Scotia	✓	01/2003	Smoking prohibited in many enclosed public places; DSRs required in restaurants and before 9 pm in bars
Prince Edward Island	✓	06/2003	Smoking prohibited in many public places and workplaces; smoking areas or DSRs required in other workplaces including restaurants and bars
Newfoundland	✓	01/2002	Smoking prohibited in public places open to youth and all provincial government work sites; smoking areas or DSRs permitted in other public places
Yukon			No territorial legislation
Northwest Territories	✓	05/2004	WCB for both territories banned smoking in all public places and workplaces (no DSRs) including restaurants, bars, bingo halls, bowling alleys and casinos; smoking prohibited within 3 m of entrances/exits
Nunavut	✓	05/2004	
FEDERAL			Smoking is regulated in financial buildings, on public transit, commercial aircrafts, and government workplaces

Passed = Legislation passed but not yet implemented WCB = Workers Compensation Board DSR = enclosed and separately ventilated Designated Smoking Room.

✓ = Provincial/territorial-wide smoke-free legislation with or without DSRs

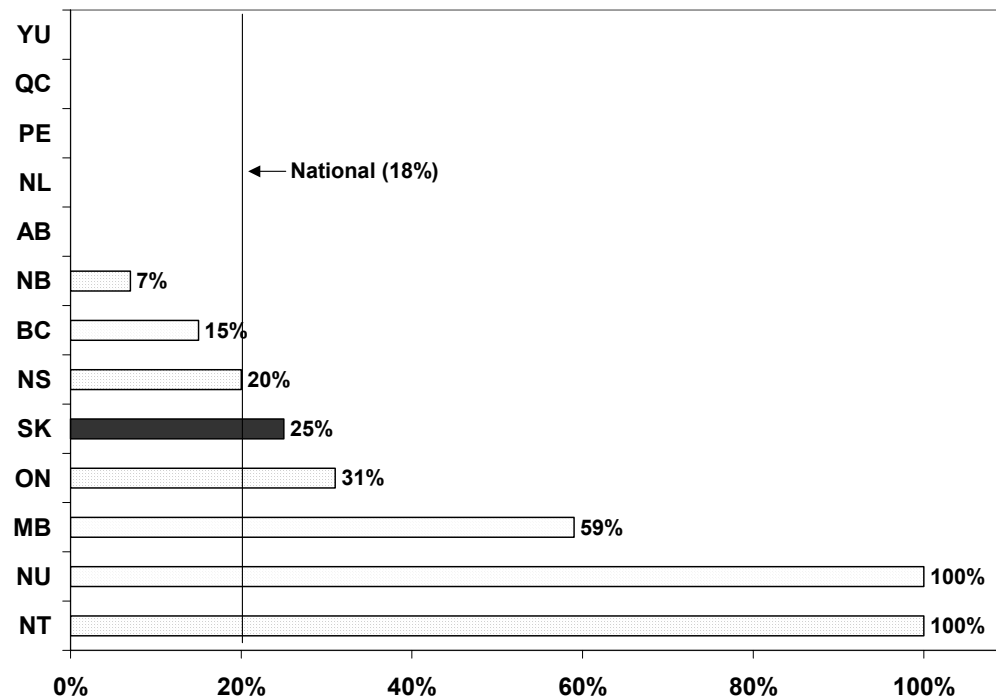
✓ = Partial provincial/territorial-wide smoke-free legislation

Source: Non Smokers' Rights Association, The National Clearinghouse on Tobacco and Health, provincial/territorial internet websites.

Municipal Bylaws

In July 2004, 18% of the Canadian population was protected by 100% smoke-free regulations (i.e., regulations with no DSR exemptions and covering all restaurants, bars, billiard and bingo halls, bowling alleys, and casinos/slots; Figure 1). Although the entire populations of Nunavut and the Northwest Territories are protected from SHS by territory-wide legislation, coverage in other jurisdictions at this level is a result of the passage of municipal bylaws. Currently at 31% as of July 1, Ontario surpasses the national proportion of the population fully protected from SHS, falling behind Nunavut and the Northwest Territories and Manitoba's 59%. With Manitoba and New Brunswick's enactment of provincial smoke-free legislation in October 2004 and with Saskatchewan legislation coming into force in the New Year, Ontario's ranking is expected to drop—at least until promised province-wide legislation is enacted.

Figure 1: Proportion of Population Covered by Municipal 100% Smoke-free Bylaws in Canadian Provinces and Territories, July 2004



Note: Municipalities in Québec do not have authority to pass smoke-free bylaws.

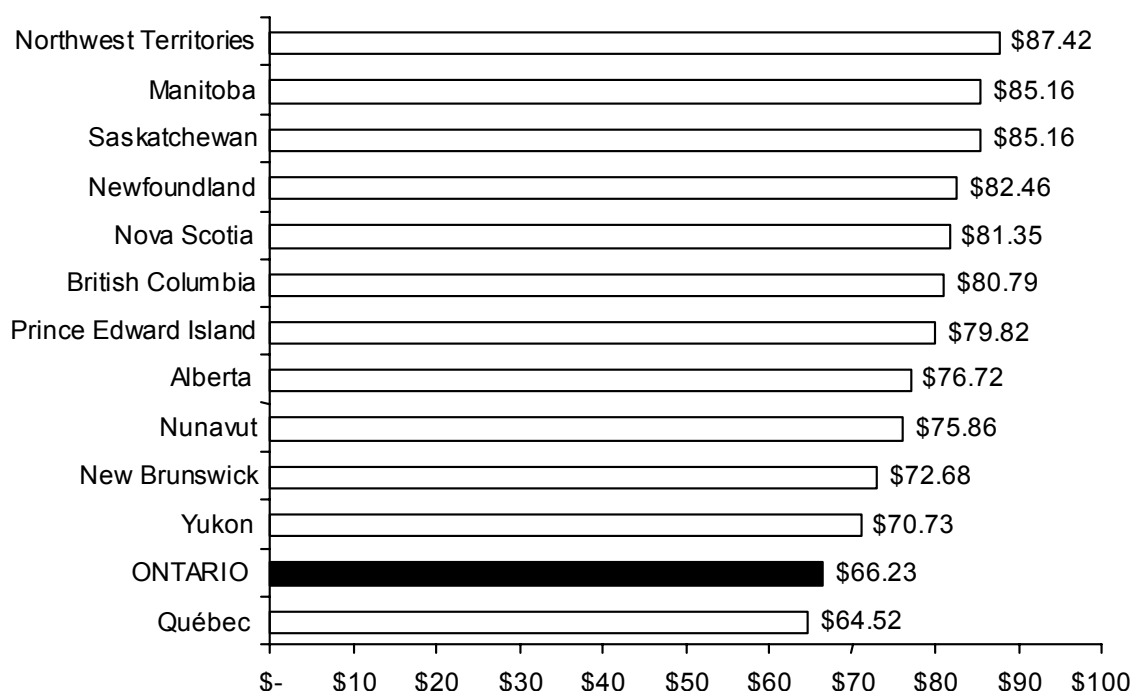
Source: Non Smokers' Rights Association, June 2004; Population Figures from Statistics Canada 2001 Census.²¹

Tobacco Taxation

It has been widely established that higher cigarette prices encourage cessation among smokers and help prevent youth from starting to smoke.^{22,23} For federal, provincial, and territorial governments, raising cigarette prices through taxation has been an effective tobacco control policy. The Northwest Territories now has the highest price per carton of cigarettes in Canada at \$87.42, followed closely by Saskatchewan and Manitoba at \$85.16 (Figure 2). In November 2003, the newly elected Liberal Government in Ontario raised tobacco taxes by \$2.50 per carton of cigarettes. Québec matched this increase shortly thereafter; however, in May 2004, Ontario hiked tobacco taxes a second time, which brought the price of cigarettes to \$66.23. The price of cigarettes in Ontario is now marginally higher than in Québec (\$64.52) although Ontario falls more than \$10 below the national average of \$78.56 (less Ontario) and approximately \$20 lower than prices in the Northwest Territories, Manitoba, and Saskatchewan. It is expected that Ontario will continue to raise tobacco taxes, in keeping with its promise to bring the rate to the national average.²⁴

In March 2004, Newfoundland increased the tax on 200 grams of fine-cut tobacco (i.e., cigarette equivalents or roll-your-own) slightly more than that on a carton of 200 cigarettes.²⁵ This addressed a tax loophole, which had resulted in fine-cut tobacco being taxed at a lower rate than cigarettes (based on the inaccurate assumption that 1 cigarette equaled 1 gram of fine-cut tobacco, when the difference is closer to 0.5 grams²⁶). Tobacco control proponents have continued to encourage the federal and provincial/territorial governments to adapt an appropriate conversion factor, and thus, close this loophole.²⁶

Figure 2: Price Per Carton of Cigarettes in Canadian Provinces and Territories, May 2004



Source: Smoking and Health Action Foundation (based on estimates from Finance Canada), May 2004.²⁷

Retail Sales of Cigarettes

Places to Sell

Tobacco control policies have evolved in many domains including restricting the sale of tobacco from a range of retail sources. These policies have been implemented for a number of reasons including limiting youth access, promotion, cessation, and product denormalization.

Regulations regarding the sale of tobacco from vending machines fall under the federal *Tobacco Act*, which states: “No person shall furnishⁱⁱ or permit the furnishing of a tobacco product by means of a device that dispenses tobacco products except where the device is in (a) a place to which the public does not have reasonable access; or (b) a bar, tavern or beverage room and has a prescribed security mechanism.” Provinces and territories must uphold this law as a minimum requirement; however, several jurisdictions have passed more restrictive policies. Ontario, Nova Scotia and Nunavut have completely banned the sale of tobacco from such devices. Saskatchewan’s policy on vending machines is more prohibitive than the Federal policy, though vending machines are not banned entirely (Table 5).

In contrast, the Federal *Tobacco Act* does not have any regulations restricting the sale of tobacco in health care facilities or pharmacies. Several jurisdictions have taken the initiative to limit tobacco sales in these outlets. Specifically, three provinces (Saskatchewan, Ontario, and Québec) and one territory (Nunavut) have banned sales in health care facilities and five provinces (Ontario, Québec, New Brunswick, Nova Scotia, and Newfoundland) and one territory (Nunavut) has banned sales in pharmacies.

ⁱⁱ “Furnish” means to sell, lend, assign, give or send, with or without consideration, or to barter or deposit with another person for the performance of a service.

Table 5: Prohibitions on the Sale of Cigarettes in Canada, 2004

Jurisdiction	Vending Machines	Health Care Facilities	Pharmacies
British Columbia			
Alberta			
Saskatchewan	✓ ⁺	✓	
Manitoba			
ONTARIO	✓	✓	✓
Québec		✓	✓
New Brunswick			✓
Nova Scotia	✓		✓
Prince Edward Island			
Newfoundland			✓
Yukon			
Northwest Territories			
Nunavut	✓	✓	✓
FEDERAL	✓		

✓ = Federal provisions (required to be met by all provinces/territories)

✓⁺ = Provisions more restrictive than federal policy, but not total ban

✓ = Total ban

Policies Restricting Cigarette Sales to Youth

Policies that limit youth access to tobacco products are key elements in preventing youth from starting to smoke. A federal law provides general provisions regarding the sale and supply of tobacco products in Canada. The federal government, for example, has legislated a minimum purchasing age, which prohibits tobacco sales to persons under 18 (Table 6). Approximately half of Canadian jurisdictions—Ontario, British Columbia, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Nunavut—have legislation that is more restrictive than the Federal *Tobacco Act*, prohibiting tobacco sales to persons less than 19 years of age.

With respect to sale and supply, the federal *Tobacco Act* states: “No person shall furnish a tobacco product to a young person in a public place or in a place to which the public reasonably has access.” However, four Canadian jurisdictions—Ontario, British Columbia, Newfoundland, and Nunavut—have more restrictive laws, which ban the sale and supply of tobacco in both public *and* private places (Table 6). A number of provinces have regulations falling somewhere between these two poles including Saskatchewan, Manitoba, New Brunswick, Nova Scotia, and Prince Edward Island (e.g., parental supply of cigarettes might be permitted). Although Québec and the Northwest Territories have purchasing laws, these are no stronger than the federal law.

In April 2003, Alberta passed legislation to ban youth possession of tobacco, joining Nova Scotia as the only other Canadian jurisdiction with such legislation. Several groups have voiced opposition to this approach including the Expert Panel on the Renewal of the Ontario Tobacco Strategy and the Canadian Cancer Society.²⁸ In 2002, Saskatchewan set a precedent as the only province or territory to ban the display of tobacco industry signage such as Operation ID materials.

Table 6: Youth Access Provisions in Canada, 2004

Jurisdiction	Minimum Purchasing Age	Purchasing Laws (Sale and Supply) ⁱ	Possession Laws	Tobacco Industry Signage
British Columbia	19	✓		
Alberta			✓	
Saskatchewan	18	✓ ⁺		✓
Manitoba	18	✓ ⁺		
ONTARIO	19	✓		
Québec	18	✓		
New Brunswick	19	✓ ⁺		
Nova Scotia	19	✓ ⁺	✓	
Prince Edward Island	19	✓ ⁺		
Newfoundland	19	✓		
Yukon				
Northwest Territories	18	✓		
Nunavut	19	✓		
FEDERAL	18	✓		

✓ = Federal provisions (required to be met by all provinces/territories) and/or equivalent provincial/territorial law

✓⁺ = Provisions more restrictive than federal policy, but not total ban

✓ = Total ban

ⁱFor details on provisions more restrictive than federal regulations, see respective provincial/territorial legislation.

Point of Sale

In March 2002, Saskatchewan became the first jurisdiction in Canada to ban the display of visible tobacco products and advertising in retail premises assessable by youth. The ban was short-lived, however, as it was successfully challenged in the Saskatchewan Court of Appeal in October 2003 on the grounds that it conflicted with federal legislation. In March 2004, the Supreme Court of Canada ruled that Saskatchewan could appeal this earlier ruling, but as yet no further ruling has been made. Manitoba and Nunavut have also passed legislation banning the retail display of tobacco, but enactment has been put on hold pending the outcome of the Saskatchewan case (Table 7). In Ontario, the recently elected Liberal government has indicated its intentions to proceed with a retail display ban, which would fulfil a campaign promise made during the provincial election. In

Prince Edward Island, a legislative committee has recommended the prohibition of retail displays that advertise and promote tobacco products including countertop displays and price signage. Although self-serve displays are prohibited by federal legislation, New Brunswick and Nova Scotia ban all forms of countertop displays (i.e., clear locked displays of tobacco products).

Table 7: Prohibition of Tobacco Industry Marketing in Canada, 2004

Jurisdiction	Point of Sale Advertising	Retail Displays	Countertop Displays
British Columbia			
Alberta			
Saskatchewan	✓+	✓	
Manitoba	Passed	Passed	
ONTARIO			
Québec			
New Brunswick			✓
Nova Scotia			✓
Prince Edward Island			
Newfoundland			
Yukon			
Northwest Territories			
Nunavut	Passed	Passed	
FEDERAL	✓		

Passed = Legislation passed but not yet implemented

✓ = Federal provisions (required to be met by all provinces/territories)

✓+ = Provisions more restrictive than federal policy, but not total ban

✓ = Total Ban

Litigation

Globally, tobacco industry litigation has become an important aspect in tobacco control.²⁹ In Canada, governments have used litigation in two primary areas: health care cost recovery and to combat tobacco industry smuggling, with British Columbia, Québec, and Newfoundland leading the way (Table 8).

British Columbia was the first province to file a Canadian lawsuit against the tobacco industry to recover tobacco-related health care expenditures caused by smoking. Not surprisingly, the tobacco industry challenged the lawsuit, and for the second time in June 2003, a British Columbia court ruled in favour of the tobacco industry, finding the province's *Tobacco Damage and Health Care Recovery Act* unconstitutional.³⁰ In May 2004, however, the B.C. Court of Appeal overturned this decision, which allowed the province to proceed with their \$10 billion lawsuit to recover health care costs.^{31,32}

Table 8: Current Litigation against the Tobacco Industry in Canada, 2003-04

Jurisdiction	Health Care Cost Recovery	Recovery of Revenue Lost Due to Smuggling
British Columbia	✓	
Alberta		
Saskatchewan		
Manitoba		
ONTARIO		
Québec		✓
New Brunswick		
Nova Scotia		
Prince Edward Island		
Newfoundland	✓	
Yukon		
Northwest Territories		
Nunavut		
FEDERAL		✓

✓ = Current litigation

In June 2003, following the British Columbia ruling, the Government of Newfoundland and Labrador restated their plans to move forward with litigation to hold the tobacco industry accountable for smoking-related health care costs.³³ Given the earlier ruling in British Columbia, Newfoundland had filed their case in the Court of Appeal to determine if it was constitutional; to date, no decision has been made.³⁴

Under the U.S. Racketeer Influenced and Corrupt Organizations Act (RICO), Ontario filed a U.S federal court lawsuit against major North American tobacco companies on March 2, 2000 to recover \$40 billion worth of smoking-related health care costs.³⁵ The suit was dismissed, first on August 7, 2000 and again on appeal. (The court noted that Ontario's alleged injury was too remote to permit legal recovery and suggested that foreign suits should be filed in a country's home court.)

Cigarette smuggling has significant international health and economic consequences. Although not yet in force, the Framework Convention on Tobacco Control outlines international provisions regarding the illicit trade of tobacco products including smuggling, manufacturing and counterfeiting.³⁶ Closing for signatures in June 2004 the Treaty is expected to become international law by the end of the year.³⁷ (Canada signed on July 15, 2003 but has yet to ratify the Treaty.³⁸)

In early July 2004, the European Union (EU) and Philip Morris International ended years of litigation on

smuggling charges. The tobacco company will pay the EU \$1.25 billion (U.S.) over 12 years; the settlement ends all prior disputes between the EU and Philip Morris.³⁹

In August 2003, the Government of Canada filed a lawsuit against R.J. Reynolds, Japan Tobacco, and related companies for \$1.5 billion on the issue of smuggling tobacco in the early 1990s. In July 2004, the tobacco industry appeared in court on these charges, although the preliminary trial was delayed until November 2004.⁴⁰ The Canadian Government had filed a similar lawsuit in U.S. courts in 1999 but the case was dismissed in 2002 on the ruling that a foreign government could not collect foreign tax revenue in U.S. courts.⁴¹

In January 2004, the Government of Québec sued JTI-MacDonald Corporation for up to \$1 billion in unpaid taxes on smuggled cigarettes for the period 1990 to 1994.⁴² Recently, the courts judged in favour of Québec.⁴³ Following the ruling, the province issued a tax bill to JTI-MacDonald, who shortly thereafter obtained legal protection from its creditors to stave off bankruptcy.⁴⁴

Individual and class action lawsuits continue across the country. In February 2004, a multi-million dollar class action suit against Canada's three largest tobacco manufacturers was dismissed from an Ontario court on the grounds that no identifiable class was established. The lawsuit, filed by four plaintiffs for negligence, conspiracy, deception, misrepresentation, and suppression of information, would have been the largest in Canada's history.⁴⁵

Product Regulations

General reporting requirements on tobacco products and their emissions from Canadian tobacco manufacturers is legislated by the federal government. In 1998, British Columbia and Québec passed legislation requiring an increase of specific reporting from tobacco manufacturers.⁴ As a result, more rigorous product testing occurs in British Columbia than at the federal level. Specifically, British Columbia was the first jurisdiction internationally to require manufacturer testing to more closely replicate a range of smoking behaviours.⁴⁶

In April 2004, in an effort to reduce cigarette-initiated fires—the leading cause of loss and fatalities by fires in Canada⁴⁷—then Health Minister Pierre Pettigrew proposed Bill C-260. This Bill would require that domestic and imported cigarettes meet ignition propensity standards.⁴⁸ If passed by the House of Commons, the proposed regulation would come into effect by October 1, 2005. With a new Liberal minority government elected June 28, 2004, it is not clear what the federal agenda will be. The federal Bill corresponds to precedent setting legislation in New York, where in June, 2004 legislation came into effect requiring all cigarettes sold in the state to self-extinguish when left burning.⁴⁹

Cessation Programs and Services

In 2000, Health Canada produced an extensive Canada-wide inventory of cessation programs and resources.⁵⁰ This inventory underscored the breadth of programming across Canada, although the intensity and reach of this programming within any given province/territory was not readily identifiable.

All Canadians have access to provincial/territorial toll-free quit lines, with trained counsellors providing cessation information, advice, and support. Nevertheless, variation exists among quit line services including hours of operation, language of service, protocols, and funding sources (e.g., federal/provincial/territorial governments or regional NGO divisions). (Ontario's quitline will be discussed in more detail in a forthcoming evaluation report to be released this fall: *OTS Project Evaluations, 2003-04: A Coordinated Review*).

Several jurisdictions across Canada have taken the initiative to subsidize nicotine replacement therapies (NRTs).

Québec is the only jurisdiction to fully reimburse NRT at a cost of \$15 million in 2003-2004. Alberta, Nova Scotia, Prince Edward Island, the Northwest Territories, and Nunavut have various limitations on their provision of subsidized NRT including monetary caps and eligibility criteria (e.g., aboriginal peoples, social assistance recipients, concurrent enrollment in counselling, etc.). Presently, there is no provincial subsidization of NRT in Ontario, but this has been recommended in a recent Ontario Medical Association report.⁵¹

CONCLUDING NOTE

The tobacco control environment in Canada is diverse, characterized by different combinations of program and policy initiatives and government commitment and funding. As is evident from this scan, one or more jurisdictions may lead in a given area, but lag behind in another.

Clearly, there are lessons to be learned in Ontario from those jurisdictions with progressive policies and programs, as there are by other jurisdictions learning from Ontario. The areas where other jurisdictions have set an example for Ontario include provincial smoke-free legislation, tobacco taxation, litigation, retailing restrictions, and subsidies for NRTs.

REFERENCES

- ¹ U.S. Department of Health and Human Services. The health consequences of smoking: a report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2004. Available from: http://www.cdc.gov/tobacco/sgr/sgr_2004/. Accessed: August 4, 2004.
- ² Illing, E.M. & Kaiserman, M.J. Mortality attributable to tobacco use in Canada and its regions, 1998. *Canadian Journal of Public Health*, 2004; 95:38-44.
- ³ Statistics Canada. Health indicators (Vol. 2004 No. 1). Canadian Community Health Survey, Cycle 2.1, 2003. Available from: http://www.statcan.ca/english/freepub/82-221-XIE/00604/tables/html/2118_03.htm. Accessed: July 20, 2004.
- ⁴ Health Canada. The national strategy: moving forward. The 2003 progress report on tobacco control. Health Canada: Ottawa, ON. 2003. Available from: <http://www.hc-sc.gc.ca/hecs-sesc/tobacco/policy/prog03/index.html>. Accessed: July 15, 2004.
- ⁵ Health Canada. Research: Cigarette and fine-cut sales charts, 1980-2003. Available from: <http://www.hc-sc.gc.ca/hecs-sesc/tobacco/research/index.html>. Accessed: July 14, 2004.
- ⁶ Statistics Canada. 2001 Census: aboriginal peoples of Canada. Available from: <http://www12.statcan.ca/english/census01/products/standard/themes/RetrieveProductTable.cfm?Temporal=2001&PID=62716&METH=1&APATH=3&PTYPE=55440&THEME=45&FREE=0&AID=0&FOCUS=0&VID=0&GC=99&GK=N&SC=1&CPP=99&SR=1&RL=0&RPP=9999&D1=0&D2=0&D3=0&D4=0&D5=0&D6=0&GID=431515>. Accessed: July 14, 2003.
- ⁷ Physicians for a Smoke-Free Canada. News release: Health groups to Prime Minister: cuts to tobacco control programme threaten public health. April 6, 2004. Available from: http://www.smoke-free.ca/eng_home/news_press_April6-04.htm. Accessed: September 9, 2004.
- ⁸ Bank of Canada. Rates and statistics: daily foreign exchange rates look-up (past ten years). Available from: <http://www.bankofcanada.ca/en/exchange-look.htm>. Accessed: July 20, 2004.
- ⁹ Campaign for Tobacco-Free Kids (Special Reports). State tobacco settlement 2004 report. Available from: <http://tobaccofreekids.org/reports/settlements/2004/fullreport.pdf>. Accessed: July 14, 2004.
- ¹⁰ Statistics Canada. Demographic statistics: Canada's population, updated postcensal estimates. The Daily, Wednesday June 25, 2003. Available from: <http://www.statcan.ca/Daily/English/030625/d030625e.htm>. Accessed: July 20, 2004.
- ¹¹ US Census Bureau. State and county quickfacts. People QuickFacts. Available from: <http://quickfacts.census.gov/qfd/>. Accessed: July 20, 2004.
- ¹² U.S. Department of Health and Human Services. 9th report on carcinogens. U.S. Department of Health and Human Services, Public Health Services, National Toxicology Program, 2000.
- ¹³ U.K. Department of Health. Report of the scientific committee on tobacco and health. U.K. Department of Health, Northern Ireland Department of Health and Social Services, The Scottish Office Department of Health, Welsh Office, 1998.
- ¹⁴ U.S. Department of Health and Human Services. The health consequences of involuntary smoking. A Report of the Surgeon General. U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1986. DHHS Publication No. (CDC) 87-8398.
- ¹⁵ U.S. Environmental Protection Agency. Respiratory health effects of passive smoking: lung cancer and other disorders. Bethesda, MD: U.S. Department of Health and Human Services, Public Health Services, National Institutes of Health, 1992. Publication EPA/600/6-90/006F.
- ¹⁶ Action on Smoking and Health. International trends toward smoke-free provision. July 2004. Available from: <http://www.ash.org.uk/html/publicplaces/html/intlaw.html>. Accessed: August 30, 2004.
- ¹⁷ Harrison, S. Irish take smoking ban in stride. BCC News. June 30, 2004. Available from: <http://news.bbc.co.uk/1/hi/world/europe/3854699.stm>. Accessed: July 5, 2004.
- ¹⁸ Cherner, J. Status of state smokefree workplace laws. July 2, 2004. Available from: <http://www.smokefree.net/JoeCherner-announce/messages/247335.html>. Accessed: August 31, 2004.
- ¹⁹ Cherner, J. Rhode Island Senate votes 30-0 for smokefree workplace law. June 25, 2004. Available from: <http://www.smokefree.net/JoeCherner-announce/messages/247328.html>. Accessed: August 31, 2004.
- ²⁰ Government of Ontario. Speech from the Throne – strengthening the foundation for change. Address of the Honourable James K. Bartleman, Lieutenant Governor of Ontario on the opening of the First Session of the Thirty-Eighth Parliament of the Province of Ontario. November 20, 2003. Available from: http://www.premier.gov.on.ca/english/library/ThroneSpeech112003_ts.asp. Accessed: August 31, 2004.
- ²¹ Statistics Canada. Population, dwellings, and geography: data tables. Population and dwelling counts for Canada,

Provinces and Territories, 2001 and 1996 Censuses – 100% data. Available from:

<http://www12.statcan.ca/english/census01/products/standard/popdwell/Table-PR.cfm>. Accessed: May 3, 2004.

²² Chaloupka, F.J. & Warner, K.E. The economics of smoking. In: The handbook of health economics, Joseph Newhouse and Anthony Culyer, editors. New York, NY: Elsevier, 1999.

²³ U.S. Department of Health and Human Services. Economic approaches. In: Reducing tobacco use: a report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000: 293-369.

²⁴ Government of Ontario. Ontario budget: budget speech. Available from:

<http://www.gov.on.ca/FIN/bud04e/pdf/statement.pdf>. Accessed: October 20, 2004.

²⁵ CBC. Few tax increases, but most fees rise. Newfoundland and Labrador Budget 2004. Available from:

<http://stjohns.cbc.ca/features/NFLDbudget2004/taxes.html>. Accessed: August 6, 2004.

²⁶ Canadian Coalition for Action on Tobacco. A win-win: Enhancing public health and public revenue. Recommendations to increase tobacco taxes. January 2004. Available from: <http://www.nsra-adnf.ca/DOCUMENTS/PDFs/taxreport2004.pdf>. Accessed: August 5, 2004.

²⁷ Smoking and Health Action Foundation. Cigarette prices in Canada, May 18, 2004. Available from: <http://www.nsra-adnf.ca/DOCUMENTS/taxmapmay18.pdf>. Accessed: July 13, 2004.

²⁸ Canadian Cancer Society. Youth tobacco possession laws. Available from:

http://www.cancer.ca/ccs/internet/standard/0,3182,3543_334407_371580_langId-en,00.html. Accessed: July 26, 2004.

²⁹ World Health Organization. Towards health with justice: Litigation and public inquiries as tools for tobacco control. 2002. Available from: http://www.who.int/tobacco/media/en/final_jordan_report.pdf. Accessed: July 13, 2004.

³⁰ CBC News Online. Court snuffs out B.C. tobacco suit. Available from:

<http://222.cbc.ca/stories/2003/06/05/smokesuit030605>. Accessed: July 13, 2004.

³¹ Mickleburgh, R. Court upholds B.C.'s right to launch "big tobacco" suit. Globe and Mail. May 21, 2004. Available from: <http://www.globeandmail.com/servlet/ArticleNews/TPStory/LAC/20040521/TOBACCO21/TPNational/Canada>. Accessed: July 13, 2004.

³² Meissner, K.B.C. plans \$10-billion tobacco lawsuit after appeal court upholds law. Canadian Press. May 20, 2004.

Available from: http://www.medbroadcast.com/health_news_details.asp?news_id=4117&news_channel_id=1004.

Accessed: July 13, 2004.

³³ CBC News Online. Won't extinguish plans to sue big tobacco. Available from: http://www.cbc.ca/cgi-bin/templates/print.cgi?/2003/06/09/Consumers/smokinglawsuit_030609. Accessed: July 12, 2004.

³⁴ Coady, K. Newfoundland and Labrador alliance for the control of tobacco. Personal communication. July 15, 2004.

³⁵ Action on Smoking and Health. Ontario sues industry in US under RICO. Available from: <http://www.no-smoking.org/march00/03-03-00-3.html>. Accessed: October 21, 2004.

³⁶ World Health Organization. WHO Framework Convention on Tobacco Control. Fifty-Sixth World Health Assembly. May 21, 2003. Available from: http://www.who.int/gb/ebwha/pdf_files/WHA56/ea56r1.pdf. Accessed: July 14, 2004.

³⁷ World Health Organization. The WHO Framework Convention on Tobacco Control on track to become law by the end of the year. WHO. July 2, 2004. Available from: <http://www.who.int/mediacentre/releases/2004/pr47/en/>. Accessed: July 14, 2004.

³⁸ World Health Organization. Updated status of the WHO Framework Convention on Tobacco Control. WHO, 2004. Available from: http://www.who.int/tobacco/areas/framework/signing_ceremony/countrylist/en/. Accessed: July 26, 2004.

³⁹ EU, Philip Morris settle for \$1.25B. Reuters. Available from: <http://cnews.ca/CNEWS/Canada/2004/07/09/533676-cp.html>. Accessed: July 14, 2004.

⁴⁰ Fairbairn, S. Tobacco giant appears in court. Canadian Press. July 9, 2004. Available from:

<http://cnews.canoe.ca/CNEWS/Canada/2004/07/09/533676-cp.html>. Accessed: July 14, 2004.

⁴¹ Cunningham, R. Background: Federal Government sues tobacco companies for contraband. Canadian Cancer Society. August 14, 2003.

⁴² Montreal Gazette. Québec sues tobacco firm for cigarette smuggling. January 14, 2004. Available from:

[http://www.tobaccolaw.org/documents/english/bylaws/ QuébecSuesJTIMacdonaldforIllegalTobaccoSales2004.htm](http://www.tobaccolaw.org/documents/english/bylaws/QuébecSuesJTIMacdonaldforIllegalTobaccoSales2004.htm). Accessed: July 12, 2004.

⁴³ Tu Thanh Ha. Pay Québec \$1.4-billion, tobacco firm told. Globe and Mail. August 14, 2004.

Available from: <http://www.theglobeandmail.com/servlet/story/RTGAM.20040813.wtoba14/BNSStory>. Accessed:

November 9, 2004.

⁴⁴ Canada NewsWire. JTI-Macdonald Corp. granted court protection to continue business - following a \$1.36 billion claim by Revenue Québec. Available from: <http://www.newswire.ca/en/releases/archive/August2004/24/c3691.html>. Accessed: November 5, 2004.

⁴⁵ Friesen, J. Ontario court throws out class action against big tobacco. *Globe and Mail*. February 6, 2004. Available from: <http://www.globeandmail.com/servlet/ArticleNews/TPStory/LAC/20040206/TOBACCO06/National/Idx>. Accessed: July 13, 2004.

⁴⁶ Government of British Columbia. What is in cigarettes? Tobacco Testing and Disclosure Regulation. Available from: <http://www.hlth.gov.bc.ca/ttdr/regs.html#testing>. Accessed: July 15, 2004.

⁴⁷ Health Canada. Reducing the fire-risk of cigarettes. Backgrounder: Ottawa, ON. April 2004.

⁴⁸ Health Canada. Minister Pettigrew proposed regulations for manufacturing standards to reduce fire-risk of cigarettes. News Release: Ottawa, ON. April 30, 2004. Available from: http://www.hc-sc.gc.ca/english/media/releases/2004/2004_19.htm. Accessed: July 15, 2004.

⁴⁹ Chang, A. New York requires 'fire safe' cigarettes. *Toronto Star*. June 28, 2004. Available from: http://www.thestar.com/NASApp/cs/ContentServer?pagename=thestar/Layout/Article_Type1&c=Article&cid=1088374209695&call_pageid=968332188854&col=968350060724&tacodalgin=no. Accessed: July 15, 2004.

⁵⁰ Health Canada. Tobacco use cessation programs: an inventory of Canadian tobacco cessation programs and resources. Available from: <http://www.hc-sc.gc.ca/hecs-sesc/tobacco/prof/cessation.html>. Accessed July 29 2004.

⁵¹ Ontario Medical Association. Investing in tobacco control: Good health policy, good fiscal policy. Available from: <http://www.oma.org/phealth/tobaccocontrol.pdf>. Accessed: August 3 2004.