

The Tobacco Control Environment: Ontario and Beyond

Ontario Tobacco Research Unit

June 2005

Suggested Citation. Ontario Tobacco Research Unit. (2005, June). The Tobacco Control Environment: Ontario and Beyond. [Special Reports: Monitoring and Evaluation Series, 2004-2005 (Vol. 11, No. 1)]. Toronto, ON: Ontario Tobacco Research Unit.

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 describes tobacco control initiatives currently in place in Canadian provinces and territories, and internationally if particularly innovative policies exist. Although programmatic activity is an important component of a comprehensive tobacco control, this report is primarily a policy overview. While every effort has been made to ensure accuracy, 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 2004-2005 consists of:

Number 1: *The Tobacco Control Environment: Ontario and Beyond*—an environmental scan of policy 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 Ontario Tobacco Strategy projects funded in 2004-2005;

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.

ACKNOWLEDGEMENTS

Kate Zinszer authored this report with contributions from Jolene Dubray, Charles Victor, and Bo Zhang. Rita Luk assisted with data collection and analyses, Sonja Johnston provided production assistance, and Shawn O'Connor provided editorial and scientific guidance.

The Ontario Tobacco Research Unit's (OTRU) 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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TABLE OF CONTENTS

Preface.....	i
Acknowledgements	i
List of Tables.....	v
List of Figures.....	v
The Tobacco Control Environment: Ontario and Beyond.....	1
Tobacco Control Strategies and Funding.....	1
Tobacco Control Strategies.....	1
Tobacco Control Funding.....	2
Tobacco Control Initiatives	3
Protection from Secondhand Smoke	3
Canadian Legislation.....	3
International Legislation	4
Municipal Bylaws	6
Cessation Programs and Policies	6
Retail Sales of Cigarettes	7
Places to Sell.....	7
Cigarette Sales to Youth.....	9
Tobacco Product Displays	10
Litigation.....	11
Constituent Regulations	12
Fire-safe Cigarettes	13
Tobacco Taxation	13
Tobacco Industry	14
Concluding Note.....	15
References.....	17

LIST OF TABLES

Table 1.1: Formal Tobacco Control Strategies in Canada, by Province and Territory, May 2005	2
Table 1.2: Per Capita Tobacco Control Funding in Canada, by Province and Territory, 2004-2005	3
Table 1.3: Smoke-free Public Place Legislation in Canada, by Province and Territory, June 2005	5
Table 1.4: Nicotine Replacement Therapy Coverage, by Province and Territory, May 2005	7
Table 1.5: Prohibitions on the Sale of Cigarettes in Specific Canadian Venues, by Province and Territory, June 2005	8
Table 1.6: Youth Access Provisions in Canada, by Province and Territory, May 2005	9
Table 1.7: Prohibition of Tobacco Industry Marketing in Canada, April 2005	11
Table 1.8: Market Share of the Top Four Brand Families of Cigarettes, Canada and Ontario, 2004	14

LIST OF FIGURES

Figure 1.1: Proportion of Canadian Population Covered by Municipal Bylaws and Provincial Legislation, by Provinces and Territories, January 2005	6
Figure 1.2: Price per Carton of Cigarettes in Canadian Provinces and Territories, April 2005	13
Figure 1.3: Market Share of du Maurier, Players, and Export A, Ontario, 1980-2004	15

THE TOBACCO CONTROL ENVIRONMENT: ONTARIO AND BEYOND

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.¹ Based on a national survey conducted from February to June 2004, the current smoking rate among the Canadian population was 20%, indicating that tobacco use continues to be a significant public health concern.² On an encouraging note, the national per capita sales of cigarettes and fine-cut tobacco declined by 7% from 2003 to 2004.^{3,4} Despite this decrease in sales, there is a continuing need in Ontario for policy and public health interventions to prevent smoking, to protect nonsmokers from secondhand smoke (SHS), and to aid smokers in cessation.

The vast majority of smokers (84%) live in developing nations,⁵ with diseases related to tobacco use killing nearly 5 million people worldwide every year. In an effort to curtail this growing international epidemic, the WHO developed the Framework Convention on Tobacco Control (FCTC). This legally binding treaty provides guidance for nations to implement research-based policies in areas such as secondhand smoke protection, tobacco taxation, product regulation, cigarette smuggling, public education, and cessation treatment. The treaty also requires the signatory to ban tobacco advertising and promotion, unless constitutional barriers exist, and requires warning labels that cover 30% of cigarette packages. Canada ratified the treaty on November 6, 2004—the 37th country to do so.⁶ The treaty came into effect on February 27, 2005, and as of June 27, 2005, 70 countries have ratified the treaty, excluding the United States, Russia, and China.

The number of tobacco control initiatives is growing across the province, country, and world. This report provides an overview of tobacco control strategies, funding, and initiatives in addition to information about the tobacco industry in Canada.

TOBACCO CONTROL STRATEGIES AND FUNDING

Tobacco Control Strategies

The *National Strategy to Reduce Tobacco Use in Canada*, developed by the Steering Committee of the National Strategy to Reduce Tobacco Use in Canada, has four goals—protection, prevention, cessation, and denormalization—and aims to reduce disease and death caused by tobacco use among Canadians.⁷ The *Federal Tobacco Control Strategy*, developed by Health Canada, has four goals as well—protection, prevention, cessation, and harm reduction. Each province and territory, with the exception of Saskatchewan, has supplemented the national and/or federal strategy with its own tobacco control strategy (Table 1.1). Each strategy differs in focus, strength, and mode(s) of implementation. Several of the provincial and territorial strategies have been revised since their original date of implementation. Notably, despite the absence of a formal tobacco control strategy, Saskatchewan is a leader in Canada for tobacco control legislation.

Youth and Aboriginal peoples are examples of priority groups formally addressed in several strategies. Young persons are a component in every strategy, while Aboriginal people are included in the majority of the strategies (Table 1.1). In spite of having strategies, Ontario, Prince Edward Island and Nunavut are the only provinces and territory where electronic versions of the strategies are not publicly available from their tobacco control organizations, coalitions, or government departments.

Table 1.1: Formal Tobacco Control Strategies in Canada, by Province and Territory, May 2005

Jurisdiction	Tobacco Control Strategies	Implementation Date * - updated	Aboriginal Component (% Aboriginal Population)
ONTARIO	✓	1992*	✓(1.7%)
Québec	✓	1994*	(1.1%)
British Columbia	✓	1997*	✓ (4.4%)
Newfoundland	✓	1999*	✓ (3.7%)
Prince Edward Island	✓	1999*	(1.0%)
Nunavut	✓	2000*	✓ (85.2%)
FEDERAL	✓	2001*	✓ (3.3%)
New Brunswick	✓	2001*	✓ (2.4%)
Yukon	✓	2001*	✓ (22.9%)
Alberta	✓	2001	✓ (5.3%)
Nova Scotia	✓	2001	(1.9%)
Manitoba	✓	2002	(13.6%) [†]
Northwest Territories	✓	2002	✓ (50.5%)
Saskatchewan			(13.5%)

Note: * Updated strategy since implementation; Ordered by implementation date

[†] Manitoba Aboriginal Health Unit is developing a position statement and guidelines on the ceremonial use of tobacco (A. Loughhead, April 28, 2005)

Source: Ontario;⁸ Québec;⁹ British Columbia;¹⁰ Newfoundland - M. Moore (May 5, 2005); Prince Edward Island;¹¹ Nunavut;¹² Federal;¹³ New Brunswick;¹⁴ Yukon;¹⁵ Alberta;¹⁶ Nova Scotia;¹⁷ Manitoba;¹⁸ Northwest Territories;¹⁹ Aboriginal Identity Population, 2001 Census²⁰

Tobacco Control Funding

For the 2004-2005 fiscal year, provincial funding varied considerably across Canada (Table 1.2). Although the reported figures do not include federal, municipal, or regional funding, nor the work funded by non-governmental agencies or other partners, they do provide a measure of a provincial or territorial government's funding commitment to tobacco control. Ontario allocated approximately \$30.8 million, or \$2.48 per capita to tobacco control. Ontario ranked second for net funding and fourth for per capita funding for 2004-2005. Québec had the largest net amount of funding, while the Northwest Territories had the highest per capita funding. In May 2005, the McGuinty government of Ontario announced a \$50 million investment in tobacco control for the 2005 fiscal year, which will translate into approximately \$4 per Ontarian for 2005-2006.²¹

Table 1.2: Per Capita Tobacco Control Funding in Canada, by Province and Territory, 2004-2005

Select Jurisdictions	2003-2004 Funding (CDN\$)	Population	Per Capita Funding (CDN\$)
Northwest Territories	\$250,000	42,925	\$5.82
Québec	\$33,000,000*	7,560,592	\$4.36
Alberta	\$12,400,000	3,212,813	\$3.86
ONTARIO	\$30,800,000	12,439,755	\$2.48
Nova Scotia	\$2,300,000	938,134	\$2.45
Nunavut	\$60,000	29,624	\$2.03
British Columbia	\$4,000,000	4,209,856	\$0.95
Saskatchewan	\$584,000†	996,194	\$0.59
Manitoba	\$668,000	1,173,164	\$0.57
Newfoundland and Labrador	\$200,000‡	516,875	\$0.39
Yukon	\$105,000§	31,167	\$3.37
New Brunswick	Not Available	751,449	Not Available
Prince Edward Island	Not Available	137,744	Not Available
Total, less Ontario (n=10)	\$53,567,000	18,711,344	\$2.86
Total (n=11)	\$83,567,000	31,151,099	\$2.68

Note: Ordered by per capita funding

* Québec spent \$13 million of its \$33 million budget on nicotine replacement therapy

† Saskatchewan's funding estimate does not include staff time dedicated to tobacco control

‡ Newfoundland and Labrador's estimate only includes the provincial money given to Alliance for the Control of Tobacco (ACT) and not provincial funding for any of their collaborating partners

§ Yukon's estimate does not include all of the personnel time dedicated to tobacco control

|| Would not disclose funding amount

Source: Northwest Territories – M. Wideman (April 25, 2005); Québec – Y. Archambault (April 26, 2005); Alberta – L. Carr (April 26, 2005); Ontario – S. Shedden (June 8, 2005); Nova Scotia – N. Hoddinott (April 27, 2005); Nunavut – K. Loubert (April 26, 2005); British Columbia – L. Woodland (April 26, 2005); Saskatchewan – T. Mengel (April 26, 2005); Manitoba – A. Loughhead (April 25, 2005); Newfoundland and Labrador – M. Moore (May 5, 2005); Yukon – S. Ross (May 19, 2005); Population figures from Statistics Canada's 2004 postcensal estimates²²

TOBACCO CONTROL INITIATIVES

Protection from Secondhand Smoke

Canadian Legislation

The responsibility for restricting smoking in Canada falls under the jurisdiction of the federal, provincial, and municipal governments.²³ Since 1988, the federal *Non-Smokers' Health Act* restricted or banned smoking from areas under federal regulation, which include interprovincial transportation (ground, water, and air travel), telecommunications, banks, and crown corporations.^{23,24}

Smoke-free legislation varies across Canada, with an increasing number of provinces and territories implementing smoke-free legislation, as summarized in Table 1.3. Saskatchewan, Manitoba, New Brunswick, Northwest Territories, and Nunavut implemented legislation mandating 100% smoking bans in all restaurants and bars, with designated smoking rooms (DSRs) not permitted (with a few exceptions in the Northwest Territories and Nunavut).²⁵

In May 2005, Newfoundland and Labrador announced the final approval of the *Smoke-Free Environment Act*, which will come into force on July 1, 2005.²⁶ This Act prohibits smoking in all indoor public places, including restaurants, bars, and bingo halls with DSRs not permitted, and it also bans smoking on outdoor restaurant and bar patios.²⁷

In June 2005, the Ontario Legislature approved of Bill 164: *The Smoke-Free Ontario Act*.²⁸ Bill 164 prohibits smoking in all public places including restaurants, bars, casinos, and legion halls, with DSRs not permitted, effective May 31, 2005.²⁹ The Bill also prohibits smoking in vehicles used for work, in reserved seats at open-air sports stadiums, and in underground parking.

Alberta introduced Bill 201, a private member's bill banning smoking in all workplaces and public places, including restaurants and bars.³⁰ Bill 201 has been recently amended by the Alberta government to allow smoking in any place where the proprietor chooses to ban minors under 18. Despite the amendments, if passed, Bill 201 will increase the number of places that will be smoke-free in Alberta.

Québec approved Bill 112 in June 2005, which amended the provincial *Tobacco Act*.³¹ The updated smoke-free legislation bans smoking in all enclosed public spaces, including restaurants, bars, private clubs, bingo halls, and casinos as of May 31, 2006.³² Designated smoking rooms are prohibited under Bill 112, with a few exceptions for long-term care facilities.³¹

The Nova Scotia Minister of Health Promotion announced that legislation will be introduced in the fall of 2005 prohibiting smoking in all workplaces and public places,³³ taking effect December 1, 2006. The Yukon's Workers' Compensation Health and Safety Board is currently in consultation regarding a territorial regulation concerning smoking in the workplace.³⁴

International Legislation

In the United States, as of June 2005, nine states—California, Connecticut, Delaware, Maine, Massachusetts, Montana, New York, Rhode Island, and Vermont—implemented smoking bans in all restaurants and bars, and in workplaces.³⁵ Vermont will have smoke-free bars beginning September 2005. Montana is also going smoke-free in October 2005, but the ban will not include bars for another four years.³⁶ The Senate of Maryland introduced a bill requiring that all Maryland workplaces, including restaurants and bars, be smoke-free.³⁷ Florida, Utah, and Idaho all require restaurants to be smoke-free.

Several countries have nationwide bans on smoking in all workplaces, restaurants, and bars. In 2004, Montenegro,³⁸ New Zealand,³⁹ Norway,³⁸ and Ireland³⁸ launched bans on smoking in restaurants, bars, and workplaces. In Montenegro, tobacco advertising and the portrayal of smoking on television will also be banned in 2005.³⁸ In 2004, the Himalayan Kingdom of Bhutan banned tobacco sales and smoking in all public places.⁴⁰ The Scottish Parliament passed legislation in November 2004 outlawing smoking in pubs, clubs, restaurants, and workplaces by the spring of 2006.⁴¹ On January 2005, Italy imposed a ban in all enclosed public places including bars and restaurants.⁴² Sweden announced it will introduce a nationwide smoking ban in all workplaces, restaurants, and bars as of June 2005.⁴³

Table 1.3: Smoke-free Public Place Legislation in Canada, by Province and Territory, June 2005

Jurisdiction	Smoke-free Legislation	Date in Effect	Specification(s)
FEDERAL	✓	06/1988	Smoking regulated in interprovincial transportation, financial buildings, on public transit, commercial aircrafts, and government workplaces; DSAs and DSRs permitted
ONTARIO	✓	01/1990	Smoking prohibited in certain places including nurseries, pharmacies, financial institutions, stores, arcades, laundromats, bus shelters, and hair salons; Restricted in private workplaces under provincial jurisdiction (i.e. educational institutions and hospitals); DSAs and DSRs permitted; New, more restrictive legislation in effect May 31, 2006
Yukon	✓	10/1994	No territorial legislation for workplaces and public places; Smoking prohibited on all premises owned or leased by the Yukon government, including vehicles and equipment
Alberta	✓	01/1999	Smoking restrictions in all provincial government worksites; DSRs and DSAs permitted; New, more restrictive legislation currently before the legislature
Québec	✓	12/1999	Smoking prohibited in all provincial government worksites, in many public workplaces, and in public places accessed by youth; Regulated in restaurants, bowling alleys, casinos; DSRs required in public places, DSAs permitted in restaurants, bars, and bowling alleys; New, more restrictive legislation in effect May 31, 2006
Newfoundland	✓	01/2002	Smoking prohibited in all provincial government worksites and all public places open to youth; Smoking prohibited in food established without a liquor license; DSAs and DSRs permitted in other public places; New, more restrictive legislation in effect July 1, 2005
British Columbia	✓	05/2002	Smoking prohibited in all provincial government worksites; Regulated in all public places (considered workplaces), restaurants, bars, bingo halls, bowling alleys, and casinos; DSRs permitted
Prince Edward Island	✓	12/2002	Smoking prohibited in many public places and workplaces; DSAs and DSRs permitted in other worksites and public areas
Nova Scotia	✓	01/2003	Smoking prohibited in all provincial government worksites and in many public places and worksites; Restricted in restaurants, bingo halls, and in bars until 9 pm; DSRs allowed and required in bars before 9 pm
Nunavut	✓	02/2004	Smoking prohibited in all workplaces including bingo halls, bowling alleys, and casinos; Smoking prohibited within 3 m of entrances/exits and in all public places; Restaurants and bars exempt for two years after legislation came into force; DSRs permitted for those that live within a worksite, provided no smoke enters the worksite (e.g. hotels, elders' homes, fly-in mine sites); DSAs permitted in underground mines where workers cannot surface during entire shift
Northwest Territories	✓	05/2004	Smoking prohibited in all workplaces including restaurants, bars, bingo halls, bowling alleys and casinos; Smoking prohibited within 3 m of entrances/exits and in all public places; DSRs not allowed except in mines, prisons, nursing homes, and where workers live at an enclosed worksite
New Brunswick	✓	10/2004	Smoking prohibited in all enclosed public places and workplaces including restaurants and outdoor eating and drinking areas within restaurants, bingo halls, bowling alleys, casinos, bars, and outdoor drinking areas within a bar; Group living facilities and designated hotels rooms are excluded; neither DSRs nor DSAs permitted
Manitoba	✓	10/2004	Smoking prohibited in all indoor enclosed public places and workplaces including restaurants, bingo halls, bowling alleys, and casinos; Group living facilities, hotel guest rooms, tobacconist shops, and locations of tobacco use by Aboriginal persons for spiritual or cultural practices are excluded; neither DSRs nor DSAs permitted
Saskatchewan	✓	01/2005	Smoking prohibited in all provincial government work sites, restaurants, bars, bingo halls, bowling alleys, casinos, in addition to all public places (patios, sports facilities and stadiums, entry ways, etc.); neither DSRs nor DSAs permitted

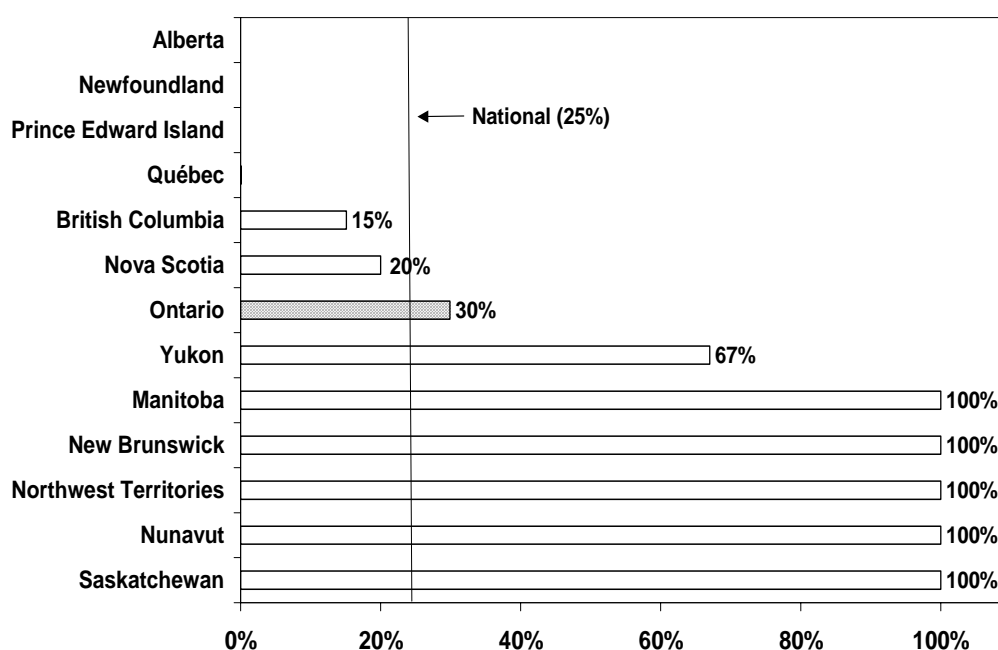
Note: ✓ Provincial/territorial-wide smoke-free legislation without DSRs; ✓ Partial provincial/territorial-wide smoke-free legislation
 DSR = enclosed and separately ventilated designated smoking room; DSA = unenclosed designated smoking area; ordered by date in effect

Source: Non-Smokers' Rights Association²⁵

Municipal Bylaws

As of January 2005, 100% smoke-free bylaws or legislation protected approximately one quarter of Canadians (Figure 1.1), with smoking bans in all restaurants, bars, pool and bingo halls, bowling alleys, and casinos/slots and no provisions for DSRs.⁴⁴ Ontario exceeded the national proportion of the population fully protected from SHS but was behind several other jurisdictions. The entire populations of Manitoba, New Brunswick, Northwest Territories, Nunavut, and Saskatchewan are protected from SHS through province- and territory-wide legislation. Municipal bylaws protect the remaining populations from SHS. As previously discussed, smoke-free province-wide legislation for Ontario and Québec has been approved, and Alberta's proposed legislation is currently before the provincial legislature, all of which will protect more citizens when implemented (or passed in Alberta's case).

Figure 1.1: Proportion of Canadian Population Covered by Municipal Bylaws and Provincial Legislation, by Provinces and Territories, January 2005



Source: Non-Smokers' Rights Association;⁴⁴ Population figures from Statistics Canada's 2004 postcensal estimates²²

Cessation Programs and Policies

Across Canada, the variety of cessation programs and resources expanded considerably from the variety of resources documented five years ago in a report by Health Canada.⁴⁵ That report included a listing of national, provincial, and territorial programs and services such as quitlines, support groups, resource materials, quit contests, group programs, counseling programs, and tobacco websites.

In 2004, OTRU and the Cessation Subcommittee of the Ontario Tobacco Strategy Steering Committee released a report on smoking cessation services offered by Ontario's public health units (PHUs) during the 2003-2004 fiscal year.⁴⁶ A variety of services were offered, including self-help resource material, telephone counseling, web-based resources, face-to-face counseling, group programs, mass media campaigns, and quit smoking contents.

Federally, pharmacological aids are covered by the Non-Insured Health Benefits (NIHB) program available only to registered Indians and recognized Inuit and Innu living in Canada not covered by another insurance plan.⁴⁷ With the exception of Québec, no other province or territory completely subsidizes nicotine replacement therapy (NRT) for all citizens,⁴⁸ although the majority of the populations of Nunavut and the Northwest Territories would be eligible for NIHB coverage (Table 1.4). Prince Edward Island subsidizes NRT or bupropion to a maximum of \$75 per calendar year for smokers participating in an intensive smoking cessation program. Nova Scotia provides funding coverage through Addiction Services within each of the province's nine health authorities. Any individual who registers and attends a nicotine treatment program through Addiction Services can receive free nicotine replacement therapy. In Alberta, Zyban is completely covered for those on social assistance. In the Northwest Territories, NRT is subsidized for seniors, people with chronic diseases, and people on social assistance, all of whom are on an extended health benefit program. These individuals are entitled to three months per year for patch, gum or Zyban therapy, or a combination of these.

Table 1.4: Nicotine Replacement Therapy Coverage, by Province and Territory, May 2005

Jurisdiction	NRT Coverage
Nunavut	
Northwest Territories	✓
Yukon	
British Columbia	
Alberta	✓
Saskatchewan	
Manitoba	
ONTARIO	
Québec	✓
New Brunswick	
Nova Scotia	✓
Prince Edward Island	✓
Newfoundland	
Federal	✓

Note: ✓ = Partial coverage; ✓ = Total coverage; Ordered by geographical location

Source: Alberta – K. Naidoo (May 6, 2005); Nova Scotia – N. Hoddinott (May 9, 2005); Northwest Territories – M. Wideman (May 5, 2005); Federal – C. Seguin (May 9, 2005); Canadian Council on Tobacco Control⁴⁸

Retail Sales of Cigarettes

Places to Sell

One cornerstone of tobacco control is the restrictions on the sale of tobacco products from a range of retail sources. Such restrictions have been implemented for a number of reasons, including limiting youth access and exposure to product promotion, and for cessation and product denormalization.

Regulations regarding the sale of tobacco from vending machines fall under the federal *Tobacco Act*, which states:

No person shall furnishⁱ 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.⁴⁹

Provinces and territories must uphold this law as a minimum requirement; however, several jurisdictions have passed more restrictive policies. Ontario, Nova Scotia, Prince Edward Island, and Nunavut completely banned the sale of tobacco from such devices (Table 1.5). Saskatchewan's policy on vending machines is more prohibitive than the federal policy, though vending machines are not banned entirely.

In contrast, the federal *Tobacco Act* does not have any regulations restricting the sale of tobacco in designated places. In several jurisdictions, places such as health care facilities, pharmacies, residential care facilities, schools, and childcare facilities have taken this initiative. Nunavut, Prince Edward Island, and Québec have the most prohibitions on the sale of cigarettes compared to the other provinces and territories, although Prince Edward Island's regulations have not been officially proclaimed (Table 1.5).⁵⁰ Ontario restricts the sale of cigarettes in pharmacies and in health care facilities. Alberta, British Columbia, Manitoba, Yukon, and Northwest Territories do not have any prohibitions on the sales of cigarettes. Other venues where jurisdictions have restricted tobacco sales include provincial and municipal government buildings (Saskatchewan and Prince Edward Island), psychiatric facilities (Saskatchewan), amusement parks, theatres and video arcades (Saskatchewan and Prince Edward Island), and recreational facilities (Prince Edward Island).

Table 1.5: Prohibitions on the Sale of Cigarettes in Specific Canadian Venues, by Province and Territory, June 2005

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

Note: ✓ Total ban; ✓⁺ Provisions more restrictive than federal policy, but not total ban

* Date of implementation not in effect, as of June 2005

† Legislation not yet proclaimed; Ordered by geographical location

ⁱ "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.

Cigarette Sales to Youth

Limiting youth access to tobacco products is essential in preventing youth from initiating smoking. The federal *Tobacco Act* includes general provisions regarding the sale and supply of tobacco products in Canada. For example, the federal government legislated a minimum selling age prohibiting tobacco sales to persons under 18. Seven Canadian provinces and territories—Ontario, British Columbia, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland, and Nunavut—have more restrictive legislation than the federal *Tobacco Act*, prohibiting tobacco sales to persons less than 19 years of age (Table 1.6).

In late 2004, Ontario introduced a bill requiring photo identification for any person suspected of being under the age of 25 years when purchasing tobacco products. Six other provinces—Saskatchewan, Québec, New Brunswick, Nova Scotia, Prince Edwards Island, and Newfoundland—enacted similar legislation, however they require photo identification only if the purchaser is presumed to be under the legal age for purchasing tobacco (18 or 19 years old).

Youth obtain tobacco from both retail and social sources (e.g. family and friends).⁵¹ The sale and supply of tobacco to youth is restricted by the federal *Tobacco Act*, which 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.”⁴⁹ Six Canadian territories and provinces—Ontario, British Columbia, Nova Scotia, Prince Edward Island, Newfoundland, and Nunavut—enacted more restrictive laws banning the sale and supply of tobacco in not only public, but also private places (Table 1.6). Saskatchewan, Manitoba, and New Brunswick have regulations that fall between these two positions (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.

Table 1.6: Youth Access Provisions in Canada, by Province and Territory, May 2005

Jurisdiction	Minimum Purchasing Age	Purchasing Laws	Possession Laws
Nunavut	19	✓	
Northwest Territories	18	✓	
Yukon			
British Columbia	19	✓	
Alberta			✓
Saskatchewan	18	✓ ⁺	
Manitoba	18	✓ ⁺	
ONTARIO	19	✓	
Québec	18	✓	
New Brunswick	19	✓ ⁺	
Nova Scotia	19	✓ ⁺	✓
Prince Edward Island	19	✓ ⁺	
Newfoundland	19	✓	

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

✓ Equivalent provincial/territorial law to the federal law

✓ Total ban; Ordered by geographical location

Source: Canadian Law and Tobacco⁵²

Several groups oppose banning youth possession of tobacco including the Expert Panel on the Renewal of the Ontario Tobacco Strategy and the Canadian Cancer Society, the latter arguing that “there is insufficient evidence showing that laws prohibiting the purchase, possession or use of tobacco by young people are effective. As a result, it would be premature to recommend the implementation of such laws at this time.”⁵³ Notwithstanding this position, two provinces, Alberta and Nova Scotia, make it illegal for youth to possess tobacco.

Tobacco Product Displays

In Canada, restrictions on traditional forms of tobacco advertisement and promotion have resulted in retail displays playing an increasingly essential part of the tobacco industry’s marketing strategy.⁵⁴ Retail displays are one of the most important categories of tobacco industry marketing, ranging from a simple display of packages on a counter to a “power wall” of cigarette packages behind the counter.⁵⁵ In 2003, the tobacco industry paid \$88 million to retailers in Canada to place tobacco products on display.⁵⁶ Some studies have shown that tobacco product ads and displays in retail stores increase average tobacco sales by 12%⁵⁷ to 28%.⁵⁸

The federal *Tobacco Act* states that “any person may display, at retail, a tobacco product or an accessory that displays a tobacco product-related brand element”.⁴⁹ Additionally, “a retailer of tobacco products may post, in accordance with the regulations, signs at retail that indicate the availability of tobacco products and their price.” Self-service displays are banned in Canada.

Several provinces and territories have legislation banning or restricting the display of tobacco products including Saskatchewan, Nunavut, Ontario, Manitoba, New Brunswick, and Nova Scotia (Table 1.7). Saskatchewan legislation bans the display, advertising, and promotion of tobacco products in places that allow young people.⁵⁹ The Saskatchewan legislation came into effect in 2002, but Rothmans, Benson & Hedges challenged its constitutional validity. In January 2005, the Supreme Court of Canada ruled in favour of the Government of Saskatchewan by overturning the Saskatchewan Court of Appeal decision that tobacco product displays and provisions of the provincial *Tobacco Control Act* conflict with the federal *Tobacco Act*.⁶⁰ Additionally, Saskatchewan set a precedent as the only province or territory in 2002 to ban the display of tobacco industry youth access signage such as Operation ID materials.

In 2004, tobacco product display regulations came into effect in Manitoba and Nunavut, but were not enforced pending the outcome of Saskatchewan’s case.⁶¹ The Manitoba legislation, which prohibits the display, advertising, and promotion of tobacco products in any place where children are allowed, will be enforced as of August 15, 2005.⁶² Nunavut’s legislation bans the promotion and advertisement of tobacco products at retail premises accessed by young people.⁶³

In Ontario, Bill 164 prohibits countertop displays of tobacco products²⁸ and has recently been amended for a total ban on retail displays as of May 31, 2008.⁶⁴ Québec will also ban visible retail displays with a few exceptions (i.e. specialist tobacconists), effective May 31, 2008.³¹ In Prince Edward Island, a legislative committee recommended such a ban.⁶⁵

Table 1.7: Prohibition of Tobacco Industry Marketing in Canada, April 2005

Jurisdiction	Retail Displays	Countertop Displays	Tobacco Industry Signage
Nunavut	✓	✓	
Northwest Territories			
Yukon			
British Columbia			
Alberta			
Saskatchewan	✓		✓
Manitoba	✓		
ONTARIO	*	*	
Québec	*	*	
New Brunswick		✓	
Nova Scotia		✓	
Prince Edward Island			
Newfoundland			

Note: ✓ Total ban

* Date of implementation not yet in effect, as of June 2005; ordered by geographical location

Source: Smoke-Free Nova Scotia⁶⁵

Litigation

In Canada, litigation has been used for the recovery of health care costs, compensation for personal damages, and to combat tobacco industry smuggling and deceptive marketing tactics.

In 1998, British Columbia became the first province in Canada to launch a lawsuit for the recovery of tobacco related health care costs against the tobacco industry.⁶⁶ The lawsuit's claim was based upon past, wrongful conduct by tobacco companies and the deceptive promotion of their product. In May 2004, the British Columbia Court of Appeal upheld the Province's right to sue the tobacco industry and concluded that the *Tobacco Damages and Health Care Costs Recovery Act* was constitutional. The tobacco industry has applied to the Supreme Court of Canada for leave to appeal the British Columbia Court of Appeal's decision.

In February 2005, Kenneth Knight, a citizen of British Columbia, was granted a certification for a class action lawsuit against Imperial Tobacco for its marketing of cigarettes labelled "light" and "mild."⁶⁷ Knight's objective is to obtain the revenues and profits earned by the company through the deceptive marketing of the product and, if successful, distribute the proceeds in whole or in part to charitable institutions involved in researching and treating illnesses related to smoking. A future court date will determine who can join Knight in the class action suit. Imperial Tobacco has named the federal government a third party defendant in the suit because of its role in the instigation and authorization of developing lower-tar products. This is the first class action tobacco suit in Canada to be certified, and Imperial Tobacco is expected to appeal the class action certification.

In July 2004, Victor Sparkes filed a class action lawsuit against Imperial Tobacco Ltd. in the Supreme Court of Newfoundland and Labrador on behalf of residents who purchased "light" and "mild" cigarettes.⁶⁸ The claim states that Imperial Tobacco used deceptive tactics in marketing its products.⁶⁹

In Québec, two class action lawsuits were certified only weeks after the British Columbian certification was granted. The three tobacco companies involved in both suits are JTI-Macdonald Corporation, Rothmans Benson & Hedges Inc., and Imperial Tobacco Ltd.⁷⁰ The companies cannot appeal the certification because of the province's rules of procedure. The two Québec smokers are filing the lawsuits on behalf of victims of nicotine addiction, cancer victims, and those whose deaths were caused from smoking tobacco. The potential damages could represent more the \$15 billion in claims.

A class action lawsuit awaits certification in Ontario, brought against Imperial Tobacco for making cigarettes that can easily ignite mattresses and upholstery.⁷¹

JTI-Macdonald and eight former senior executives are accused of smuggling cigarettes into Canada from the United States during the 1990s.⁷² Police allege that the federal, Ontario, and Québec governments lost \$1.2 billion in tax revenue. Revenue Québec was determined to have the company pay the taxes that were lost due to the smuggling.⁷³ In a judgement given in August 2004, the Québec Superior Court ordered JTI-Macdonald to pay Revenue Québec \$1.3 billion. This allowed the department to seize company monies directly from tobacco wholesalers, which resulted in the company's request for bankruptcy protection (temporarily granted).

The federal government launched a lawsuit against JTI-Macdonald, Japan Tobacco, and other multinational tobacco companies affiliated with JTI-Macdonald, to recover lost tax revenues because of the cigarette smuggling in the 1990s.⁷³ This case is currently before the court.

Constituent Regulations

In June 2000, the federal government increased the tobacco product regulations requirements under the federal *Tobacco Act*.⁷ The federal regulations require the submission of reports from tobacco manufacturers, listing the levels of over 40 chemical emissions found in mainstream and sidestream smoke. Additionally, six of these chemical emissions (tar, nicotine, carbon monoxide, benzene, hydrogen cyanide and formaldehyde emissions) are required on tobacco packaging.⁷⁴ A proposal for tougher tobacco product regulations has been developed that focuses on presenting in-depth information on eight compounds (nicotine, carbon monoxide, formaldehyde, acetone, hydrogen cyanide, benzene, toluene, benzo[a] pyrene). Each compound would be described separately on cigarette packages, along with its health effects and range of emissions. The individual descriptions of the compounds would be distributed evenly among the cigarette packages.

British Columbia requires Canadian tobacco manufactures to list all ingredients and additives in every brand of cigarette and fine-cut tobacco, making this regulation stronger than that required at the federal level.⁷⁵ In addition to increased constituent reporting, the method of the testing also differs from the federal requirements with the British Columbian method more closely modeled after smoking behaviours.

Over the years, tobacco manufacturers have used terms such as "light" and "mild," inaccurately conveying that health effects from these products are not as severe as those from regular cigarettes. To counter this, Switzerland will be banning the terms "light" and "mild" from tobacco products.⁷⁶ Israel is also banning marketing of cigarettes labelled or promoted as "light" or "low tar" or "low nicotine."⁷⁷ Philip Morris and British American Tobacco, Australia's two top-selling tobacco companies, agreed to remove the words "light" and "mild" from their products.⁷⁸ The Australian Competition and Consumer Commission obtained court-enforceable restrictions for the two companies.

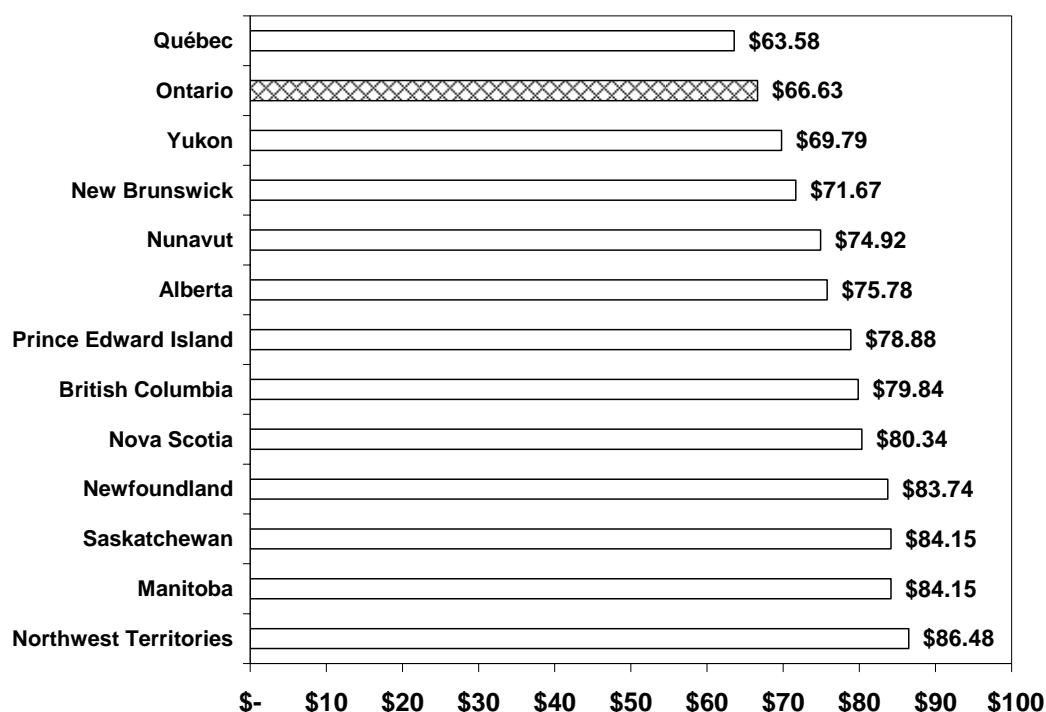
Fire-safe Cigarettes

During the period 1995-1999, at least 14,030 fires were started by cigarettes, cigars, and/or pipes, killing 356 people.⁷⁹ In April 2004, Bill C-260 was introduced in Parliament as an effort to reduce cigarette-initiated fires—the leading cause of loss and fatalities by fires in Canada. The federal Cabinet approved Bill C-260 in June 2005, making Canada the first country in the world to force tobacco companies to change their manufacturing practices to minimize the risk of cigarette-initiated fires.⁸⁰ This Bill requires that domestic and imported cigarettes meet ignition propensity regulations on or after October 1, 2005.⁸¹ 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.⁸²

Tobacco Taxation

Increasing tobacco taxes is an effective strategy to reduce smoking, especially among price sensitive populations.⁸³ As indicated in Figure 1.2, the Northwest Territories have the highest price per carton of cigarettes in Canada at \$86.48, closely followed by Manitoba and Saskatchewan at \$84.15 each.⁸⁴ Québec has the lowest price per carton of cigarettes in Canada at \$63.58 and Ontario has the second lowest price at \$66.63. In January 2005, Ontario raised its tobacco tax by \$1.25 for a carton of 200 cigarettes⁸⁵ and Newfoundland also raised its taxes in 2005 by \$2.00 per carton.⁸⁶

Figure 1.2: Price per Carton of Cigarettes in Canadian Provinces and Territories, April 2005



Source: Smoking and Health Action Foundation (based on estimates from Finance Canada)⁸⁴

In his campaign promise, Premier Dalton McGuinty stated that the Ontario Liberal anti-smoking strategy would include raising the Ontario level of cigarette tax to that of the national average.⁸⁷ In April 2005, the national average was \$77.78 (less Ontario), which was \$11.15 higher than the cigarette tax rate in Ontario.

In addition to raising taxes on 200 cigarettes, Ontario⁸⁵ and Newfoundland⁸⁶ also raised taxes on 200 grams of fine-cut tobacco (i.e. roll-your-own) by \$1.25 and \$10.00, respectively. Not all tobacco products are equally taxed.⁸⁸ For fine-cut tobacco, taxable units are defined in terms of weight. In recent years, tobacco manufacturers have been able to make fine-cut tobacco products using less tobacco than in previous years, reducing content from 1g/cigarette in the 1980s to 0.7g/cigarette in the 1990s and 0.45g/cigarette for at least one brand in 1999. Due to this taxing method, the price of fine-cut tobacco has fallen in comparison to manufactured cigarettes.

As part of the aggressive anti-smoking strategy in the Himalayan Kingdom of Bhutan, a 100% tax rate has been placed on all tobacco products brought into the country for personal consumption by Bhutanese.⁴⁰

TOBACCO INDUSTRY

There are three major tobacco manufacturers in Canada—Imperial Tobacco Canada Limited, Rothmans Inc., and JTI-Macdonald Corporation.⁸⁹ In 2004, Imperial Tobacco Canada maintained its position as the largest tobacco company, with 62% of the market share in Ontario and 58% of the market share in Canada. The second largest tobacco company in Canada was Rothmans Inc., with 20% and 24% of the market share in Ontario and in Canada, respectively. JTI-Macdonald had 6% of the market share in Ontario and 11% of the market share in Canada (Health Canada 2004, data not shown).

In 2004, du Maurier was the leading brand of cigarettes in Ontario and Canada (Table 1.8). Imperial Tobacco manufactures du Maurier and Players. Rothmans Inc. produces Number 7 cigarettes and JTI-MacDonald manufactures Export A.

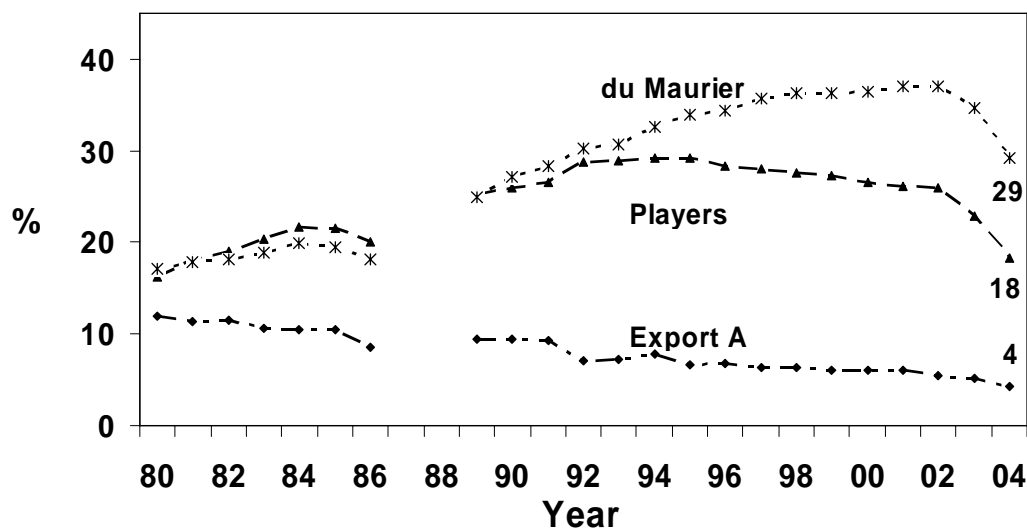
Table 1.8: Market Share of the Top Four Brand Families of Cigarettes, Canada and Ontario, 2004

Brand Family	% of Market Share Canada	% of Market Share Ontario
Du Maurier	24	29
Players	19	18
Number 7	11	8
Export A	9	4
Total	63	59

Source: Data from Health Canada 2004⁹⁰

Figure 1.3 displays the market share percentage trends for du Maurier, Players, and Export A from 1980 to 2004 (data from 1987 and 1988 were not available). Du Maurier and Players were very similar in market shares until the early 1990s, when du Maurier surpassed Players. Since 2002, Players and du Maurier both experienced a decrease in market share in Ontario.

Figure 1.3: Market Share of du Maurier, Players, and Export A, Ontario, 1980-2004



Source: Data from Health Canada 2004⁹⁰

CONCLUDING NOTE

A comprehensive tobacco control agenda includes several key elements, ranging from program and policy initiatives to government funding. As this scan suggests, the tobacco control environment in Canada is quite diverse with much variation between the provinces and territories. Each province and territory approaches tobacco control uniquely, and it has not yet been established which approach works most effectively.

As with other Canadian jurisdictions, several promising areas exist where Ontario could strengthen its tobacco control efforts, such as tobacco taxation, litigation, and industry regulation. With the promise of tobacco control expansion in Ontario, the province is positioned to become a leader within Canada for tobacco control legislation and programs that are sound in both scope and strength.

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