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Wednesday 11 June 2008

**Journal
des débats
(Hansard)**

Mercredi 11 juin 2008

**Standing Committee on
General Government**

Smoke-Free Ontario
Amendment Act, 2008

**Comité permanent des
affaires gouvernementales**

Loi de 2008 modifiant la Loi
favorisant un Ontario sans fumée

Chair: Linda Jeffrey
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 11 June 2008

Mercredi 11 juin 2008

The committee met at 1608 in room 228.

**SMOKE-FREE ONTARIO
AMENDMENT ACT, 2008**

**LOI DE 2008 MODIFIANT LA LOI
FAVORISANT UN ONTARIO SANS FUMÉE**

Consideration of Bill 69, An Act to protect children from second-hand tobacco smoke in motor vehicles by amending the Smoke-Free Ontario Act / Projet de loi 69, Loi modifiant la Loi favorisant un Ontario sans fumée pour protéger les enfants contre le tabagisme passif dans les véhicules automobiles.

The Chair (Mrs. Linda Jeffrey): I call the Standing Committee on General Government together. We're here today to begin clause-by-clause consideration of Bill 69.

Our first section is section 1, beginning with Mrs. Savoline.

Mrs. Joyce Savoline: Thank you, Madam Chair. I do have an amendment; I'm not going to read it.

The Chair (Mrs. Linda Jeffrey): You have to read it.

Mrs. Joyce Savoline: Do I? I'm sorry.

The Chair (Mrs. Linda Jeffrey): The whole thing, word for word.

Mrs. Joyce Savoline: All right. I move that section 9.2 of the Smoke-Free Ontario Act, as set out in section 1 of the bill, be amended:

(a) by striking out subsection (1) and substituting the following:

"Protection for persons under 16 years old in motor vehicles

"(1) No person shall smoke tobacco or any controlled substance or hold lighted tobacco or any burning controlled substance in a motor vehicle while another person who is less than 16 years old is present in the vehicle."

and,

(b) by adding the following definition to subsection (4):

"'controlled substance' means a substance listed in schedule I, II, III, IV or V to the Controlled Drugs and Substances Act (Canada)."

It's my hope that the committee will accept this recommendation from me today and vote in favour of the amendment. I feel that there's an opportunity here to set a role model for our kids. We're trying to protect them from health hazards, and those are the effects of second-hand tobacco smoke. However, I can't imagine what a

kid would feel like, being confined in a car, if there is medicinal marijuana being smoked. I'm sure that all the passengers in that car would feel as good as the person smoking the medicinal marijuana—so just that on its own, even affecting the driver. But the effect it might have on a child boggles my mind—and that we wouldn't use this opportunity to include this in our protection of children.

I feel that at the committee there were some comments made that indicated that it was felt that the delegations didn't want the bill diluted or delayed. I don't think this does any of that. I think just the recognition that it isn't a healthy thing to have children in a confined space when somebody is smoking marijuana, for whatever reason, is not going to delay or dilute a bill. I think that if Salvatore Anania could be called a babe, then out of the mouth of babes, he said this is the "perfect opportunity" to include something like that. Here's someone who is showing leadership as a young person in our community, and I think it would behoove us to take a page out of his book and move forward with this amendment and show some protection for our children in cars with regard to medicinal marijuana.

Ms. Helena Jaczek: I'd like to commend Ms. Savoline for her concern for children, which of course we also share. However, the Smoke-Free Ontario Act has always focused on tobacco control, so we really do not feel that this is an appropriate mechanism to address your concerns. We heard on Monday from leading health stakeholders, and they talked about the strength of the evidence related to the risks of tobacco smoke in the confined spaces of vehicles. What I certainly heard on Monday was that the strength of the scientific evidence as it related to other substances was something that was not necessarily as strong or even as well researched. With those considerations, we would not be prepared to accept this amendment.

The Chair (Mrs. Linda Jeffrey): Any further debate? Seeing none, shall the motion carry? All those in favour? All those opposed?

Mrs. Joyce Savoline: Recorded vote.

The Chair (Mrs. Linda Jeffrey): You have to ask at the beginning.

That's lost.

The next motion, Ms. Gélinas.

M^{me} France Gélinas: Same thing—I have to read it as is?

The Chair (Mrs. Linda Jeffrey): Yes.

M^{me} France Gélinas: I move that subsections 9.2(1) and (2) of the Smoke-Free Ontario Act, as set out in section 1 of the bill, be amended by striking out “16 years old” wherever it appears, and by substituting “19 years old” in every case.

When I asked why 16 years old was chosen, they basically said that it lined it up with the age of consent. This argument doesn’t hold much because we all know that a 14-year-old is able to give consent; every health professional will take the word of a 14- and 15-year-old’s consent on such things as contraceptives and a lot of things in the health care system. The age of consent being 16—I don’t see how it is related to this bill whatsoever.

The other point that was brought to me was that the studies that had been done pointed to 16 years old, and I certainly agree with this. We have the Health Canada study of 2005. But you have to realize that I asked every one of the people who came and presented if they could point to a study that included 19 years old. None of them could, but neither could any of them point to a study that showed that including 19 was going to do harm.

This is very common in health promotion. There is a very small body of scientific literature that is supporting health promotion. In the best cases, it’s sparse, and most of the time it’s just not there. It is a field of health promotion for which the body of evidence is growing. There’s some good research being done but it is not very big as it stands. I’m not surprised that they couldn’t find any studies that included 19, but they couldn’t find any studies that excluded 19 either. Basically, all the presenters referenced the same two studies because those are the only two that exist.

The Smoke-Free Ontario Act is there to protect everybody. We are passing a new bill that will amend the Smoke-Free Ontario Act in a way to further the spirit of the act, to continue to protect more people more of the time. We have an opportunity to protect more people, to protect kids who are 16, 17 and 18 years old. I realize that there’s a high level of support for the law. Library research showed us that 80% of Ontarians support the law and 66% of smokers are in favour. This law is not for those people; the law is for the people who are non-compliant, who will continue to smoke when there are kids present. Those are the people who need our support; those are also the kids who need our support.

In some of the communities that I represent in my riding, the smoking rate is three times the rate of what it is in the rest of Ontario. Of course, the body of evidence is not there. I cannot tell you what the level of compliance is going to be for those groups, but my common sense tells me that those are the communities we’re going to have a tough time with.

I can see the scenario playing out in my riding where grandpa goes to pick up the 16- or 17-year-old and lights up a cigarette. The 16- or 17-year-old goes, “Grandpa, don’t smoke in the car.” Grandpa goes, “Well, you know, I sat in the arena for two hours and I couldn’t smoke. I’m just going to open up the window, honey, and we’re all

going to be fine.” To give this 16- or 17-year-old the opportunity to say, “But grandpa, it’s the law,” is going to go in line with the spirit of the Smoke-Free Ontario Act to protect more people.

There is no body of evidence for or against the ages of 16 to 19. Some jurisdictions go to 19; some go to 16. As the cancer society says, “Let’s give a voice to the back seat”; let’s give a voice to those 16- and 17-year-olds who need that little wee bit of help to convince those drivers that they want a smoke-free ride.

Ms. Helena Jaczek: Again, I’m absolutely sure that Madame Gélinas’s amendment is done in the spirit of good health promotion practice. Certainly we have given very careful consideration to the issue of age. You’ve pointed out the scientific evidence. The studies have been done under the age of 16. That’s been the focus of the studies, obviously. Everyone understands that lungs are not mature at that age and the risk is therefore greater. Jurisdictions, again, are not particularly helpful; they vary from Arkansas, age six, to Nova Scotia at 19.

I think it is fair to say, though, that the consultation, whether it was first with the private member’s bill, Mr. Oraziotti’s bill, or now, over the course of the last few months, with various groups such as municipal and provincial police organizations that are going to be enforcing this, with AMO, the city of Toronto, a number of stakeholders were also consulted, was based on the age of 16. Again, societal concern as it relates to the attention that this bill has attracted, various surveys that have been done—the public interest is clear and is very supportive of legislation based on the age of 16.

After due consideration of all the options, we would say that we will be maintaining the age of 16 as we have it in the bill.

1620

The Chair (Mrs. Linda Jeffrey): Further debate? Seeing none, shall—

M^{me} France Gélinas: Am I allowed to speak again?

The Chair (Mrs. Linda Jeffrey): Yes.

M^{me} France Gélinas: I had tried to get people from the north to come and present. We all know that the period of time was really short. I can bring their voices forward, but they certainly have not been able to be heard by you. That’s the way the cookie crumbles, and I’m ready to live with it. But there is a voice out there. It’s just because of the timeline that it hasn’t had a chance to be heard.

The Chair (Mrs. Linda Jeffrey): Further debate? Seeing none, shall the motion carry?

M^{me} France Gélinas: Recorded vote.

Ayes

Gélinas, Savoline, Scott.

Nays

Brownell, Jaczek, Kular, Lalonde, Mauro.

The Chair (Mrs. Linda Jeffrey): That's lost.

Ms. Gélinas, you have the next motion.

M^{me} France Gélinas: I move that section 9.2 of the Smoke-Free Ontario Act, as set out in section 1 of the bill, be amended by adding the following subsection:

“Delayed enforcement.

“(3.1) No prosecutions shall be commenced under this section for contraventions committed during the first 90 days it is in force, but police officers enforcing this section may issue warnings.”

I think we've heard from everybody who presented that the key to going from 80% compliance for non-smokers, and from 66% to 100%, is education. The idea is really to give people a definite time, a 90-day period where intensive education can take place. I realize in some communities the bill has been well publicized. I can tell you that this publicity did not reach every corner of Ontario, and it certainly did not reach every corner of northern Ontario. Once the bill is proclaimed, I am hopeful that the Ministry of Health Promotion will send out a good, strong educational campaign. We're asking for 90 days for this educational campaign to reach every corner of Ontario, including remote and rural northern Ontario.

Ms. Helena Jaczek: There is no question that public education is crucial to the success. As we have said, obviously we're anticipating voluntary compliance for the most part. The ministry is committed to a very

comprehensive public education campaign that will reach every corner of the province. We know that—perhaps not so much in your community, but certainly in my own riding people have stopped me and want to talk about this particular bill. There has been a lot of publicity generated in this part of Ontario.

We intend to have a very comprehensive public education campaign starting. I asked the very same question earlier today: next week. There is no question that the materials are being put together and that this will be put in place at the earliest possible opportunity.

The Chair (Mrs. Linda Jeffrey): Further debate? Seeing none All those in favour of the motion? All those opposed? That's lost.

Shall section 1 carry? All those in favour? All those opposed? That's carried.

There are no amendments to sections 2 through 5. Shall they carry? All those in favour? All those opposed? That's carried.

Shall the title of the bill carry? All those in favour? All those opposed? That's carried.

Shall Bill 69 carry? All those in favour? All those opposed? That's carried.

Shall I report the bill to the House? All those in favour? All those opposed? That's carried.

Thank you, committee. We're adjourned.

The committee adjourned at 1625.

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