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**Official Report  
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**Wednesday 22 April 2015**

**Journal  
des débats  
(Hansard)**

**Mercredi 22 avril 2015**

**Standing Committee on  
General Government**

Making Healthier Choices  
Act, 2015

**Comité permanent des  
affaires gouvernementales**

Loi de 2015 pour des choix  
plus sains

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 22 April 2015

Mercredi 22 avril 2015

*The committee met at 1600 in room 151.*

**MAKING HEALTHIER CHOICES  
ACT, 2015**

**LOI DE 2015 POUR DES CHOIX  
PLUS SAINS**

Consideration of the following bill:

Bill 45, An Act to enhance public health by enacting the Healthy Menu Choices Act, 2015 and the Electronic Cigarettes Act, 2015 and by amending the Smoke-Free Ontario Act / Projet de loi 45, Loi visant à améliorer la santé publique par l'édiction de la Loi de 2015 pour des choix santé dans les menus et de la Loi de 2015 sur les cigarettes électroniques et la modification de la Loi favorisant un Ontario sans fumée.

**The Chair (Mr. Grant Crack):** I'd like to call the meeting to order. This is the Standing Committee on General Government. I'd like to welcome all members of the committee, members of legislative research, the Clerks' office—and of course, Hansard—who do such great work. Welcome to the presenters as well. This afternoon we're here to receive delegations regarding Bill 45, An Act to enhance public health by enacting the Healthy Menu Choices Act, 2014 and the Electronic Cigarettes Act, 2014 and by amending the Smoke-Free Ontario Act.

I just wanted to bring to your attention that there is a very good chance of a vote this afternoon—an opposition day motion. We may lose some time, so with the committee's approval could we move from the three minutes, as agreed to before, down to, say, let's try two and half, in order to be able to fit that time in? Otherwise, we might drop off the last delegation, and that would be unfortunate if they make the effort to come. Having said that, Ms. Kiwala?

**Ms. Sophie Kiwala:** I have a point of order.

**The Chair (Mr. Grant Crack):** A point of order, Ms. Kiwala.

**Ms. Sophie Kiwala:** Chair, I would like to correct my record. Yesterday I referred to the Propel Centre's analysis of youth smoking survey speaking about flavoured e-cigarettes as a possible gateway to regular tobacco use. I misspoke. The Propel study examines flavoured tobacco, not flavoured e-cigarettes.

However, I know that the member for Lanark-Frontenac-Lennox and Addington, in a point of order,

asked me to provide a study suggesting that e-cigarettes may be a gateway to regular tobacco use for youth, since he believed that no such study exists. I will provide the committee with three. I am providing the committee with a study: A Molecular Basis for Nicotine as a Gateway Drug, published in the New England Journal of Medicine in September of 2014, which concludes that nicotine acts as a gateway drug on the brain. This effect is likely to occur whether the exposure is from smoking tobacco, passive tobacco smoke, or e-cigarettes.

I'm also providing the study Risk Factors for Exclusive E-Cigarette Use and Dual E-Cigarette Use and Tobacco Use in Adolescents, published in Pediatrics in December of 2014, which suggests that e-cigarettes are recruiting medium-risk adolescents who otherwise would be less susceptible to tobacco product use.

Finally, I am providing a study from the Centers for Disease Control and Prevention, published in Nicotine and Tobacco Research in August of 2014, which found that in a nationally representative sample of middle- and high-school students who had never smoked cigarettes, youth who had used e-cigarettes were nearly two times more likely to have intentions to smoke conventional cigarettes than youth who had never used e-cigarettes.

I have those here.

**The Chair (Mr. Grant Crack):** Thank you very much, Ms. Kiwala. The first part of your point of order was a point of order. The second part and the explanation of the studies that you're going to show are not a point of order.

**Ms. Sophie Kiwala:** Sorry. Okay.

**The Chair (Mr. Grant Crack):** But thank you very much for that. We'll accept the point of order on correcting your record.

**UK CENTRE FOR TOBACCO  
AND ALCOHOL STUDIES**

**The Chair (Mr. Grant Crack):** At this particular time, I shall call upon Mr. Britton via teleconference. He's from the UK Centre for Tobacco and Alcohol Studies. I'd like to remind members of the committee that his presentation and/or information is just under your agendas in the first pack. Mr. Britton, are you with us?

**Dr. John Britton:** Yes, I am. Thanks.

**The Chair (Mr. Grant Crack):** Welcome, sir. You have five minutes to make your presentation, followed by

two and a half minutes of questioning and/or comments from the three parties involved.

**Dr. John Britton:** Okay; thank you. In view of the time shortage, I'll move very quickly. The information I would give is a very brief summary of the paper prepared for publication for Public Health England by myself and Ilze Bogdanovica about a year ago.

The thesis of the paper is that smoking kills a lot of people. There are 10 million smokers in the UK; half of those will die from smoking unless we do something about it. Every year, smoking recruits tens of thousands—or hundreds of thousands, even—of new smokers in our country. There will be high figures in Canada too. That damage is caused not by nicotine, which is not a harmless drug but is relatively harmless; it's because of all the other things in cigarette smoke that come with the nicotine. So nicotine addiction itself is not such a terrible thing, but smoking tobacco for it is pretty bad.

Electronic cigarettes have arrived over the last 10 years and taken the market by storm, really. I won't go into the detail of the different designs of the use; they are getting better in terms of nicotine delivery as time passes. They're not safe. What we do know about them suggests that they deliver a similar spectrum of chemicals and toxins to tobacco within much, much lower concentrations. I would expect that with a lifetime of use, an electronic cigarette will increase the risk of lung cancer, COPD and heart disease possibly, but that that increase in risk will be trivial, and certainly trivial compared with that of smoking. So as a substitute for smoking, these products, however hazardous they prove to be, are a very sensible choice to the smoker.

In England and in the United States, they have been taken up substantially by smokers. The important thing there is that they demonstrate that smokers want a substitute for tobacco. Most smokers in most surveys want to quit smoking, but many don't find medical routes out of smoking terribly attractive. Cold turkey is the preferred attempt but is extremely unlikely to succeed.

The principle of harm reduction, of supplying smokers with nicotine from an alternative source that is socially acceptable and preferably not medicalized, is proven in Sweden and other Scandinavian countries, where Snus has become almost the majority product for people who use nicotine. Snus, although like electronic cigarettes is not safe, has remarkably less risk to human health. That is why Sweden has the lowest cancer rate in young adults in Europe.

What it also proves is that if you give smokers an option which they buy in a corner shop, not in a pharmacy, and which is freely available, and it's socially acceptable to go out and use Snus with your friends when they're smoking, they will do it. Electronic cigarettes sort of fit that need, but do it with a cleaner product.

The potential hazards or the hazards from the product itself which I've alluded to—and then there are the consequences for smoking patterns. In smokers, the evidence in the UK is that about 20% of smokers now use electronic cigarettes on occasion and about 700,000 or

7% of all of our smokers have quit using electronic cigarettes exclusively, and that's more than we achieved by other tobacco control measures as a single initiative—a very quick initiative.

The much-voiced worries that smokers will dual-use instead of quit: Dual use of nicotine replacement therapy is actually recommended in our health guidelines at the National Institute for Clinical Excellence because we know that people who dual-use are more likely to quit. So smokers who use electronic cigarettes and real tobacco for a period are much more likely to quit than those who don't.

There's the issue of gateway use, and I disagree with the interpretation. While there are newer CDC figures published just in the last few days which are very similar to those in the UK which demonstrated that among young people the majority of those who use electronic cigarettes are those who live in families where cigarettes or electronic cigarettes are used and are, therefore, at high risk of taking up smoking anyway, the great majority of use in young people is amongst people who already smoke, and use among non-smokers is pretty negligible. It is growing and it may become a problem, but it's pretty low-key at the moment.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Britton. I apologize. As Chair, I have to keep a strict schedule here. So we'll begin—

**Dr. John Britton:** Okay. Well, I'm pretty much done. So they're a good thing, and you need to—I think the right regulation for them is regulation that makes them easily available to smokers and not hard for them to use and choose. Sorry if I've overrun.

**The Chair (Mr. Grant Crack):** Thank you very much. Mr. Hillier.

**Mr. Randy Hillier:** Thank you very much, Dr. Britton, for joining us today and clarifying some of those things. I have mentioned—I've seen some of your work, and one of the things that we've seen in your work is that more people have quit smoking using e-cigarettes or vaporizers than all other alternatives from your studies. It's interesting—you mentioned that there's a newer CDC report that was issued a few days ago that demonstrates that vaporizers or e-cigarettes are not a gateway into tobacco but more a gateway away from tobacco?

**Dr. John Britton:** Yes. I only came to see these figures in the last few days. I'm not sure when—I think they emerged in the last month, anyway. They show an increase in the use of electronic cigarettes in US high school students between 2011 and 2014, from about 2% to about 13%, and that is interpreted by CDC as a sign that electronic cigarette use will lead to smoking.

**1610**

But in the same survey, the smoking rates in the same age group have dropped from about 16% to about 9% over the same period. So what we're seeing, actually, is a switch from tobacco to electronic cigarettes, and that's a good thing.

**Mr. Randy Hillier:** You use the terms that nicotine itself, of course, is not the harm in tobacco, and—I think

you used the word—that any medical worries about vaporizers or e-cigarettes would be “trivial.”

**Dr. John Britton:** The nicotine itself is probably about as hazardous as caffeine. Worries about the other constituents in the vaporizers should be proportionate to how clean the nicotine vapour they produce is, and of course, there’s a huge variety in the products on the market.

We have companies, both pharmaceutical and others, with medicinal-grade products in the pipeline. I think that when they come, that will be quite a relief and will solve or resolve all these issues about how safe the product is. They’ll then be as safe as they can be.

**Mr. Randy Hillier:** Thank you very much. I wish I had more time, but the Chair has given me the cut-off.

**Dr. John Britton:** Thank you.

**The Chair (Mr. Grant Crack):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you for your presentation. We are about to regulate e-cigarettes in Ontario. Just to be able to draw a parallel: In England, are people allowed to smoke in restaurants and bars?

**Dr. John Britton:** Smoke tobacco? No. We’ve had comprehensive smoke-free policies since 2007.

**M<sup>me</sup> France Gélinas:** Are they allowed to use e-cigarettes in restaurants and bars?

**Dr. John Britton:** There’s no law forbidding it. What happens is, it becomes an issue of courtesy. I have, once or twice, gone into a pub where someone has been using the product—in fact, in my local pub—and they were asked to stop by the landlady, and that was that. So it isn’t actually a problem.

But there are indoor settings where I think it could be extremely useful if they were available, and they include prisons, mental health settings and other places where you have disadvantaged people with a very high level of smoking.

**M<sup>me</sup> France Gélinas:** Here, we’re not allowed to smoke within five metres of an entranceway; that would be about 12 feet. Do you have similar legislation in the UK?

**Dr. John Britton:** No. If the owner of a premise owns that part of the outside area, then yes. But no, smoking on pavements is still allowed, although some cities, including Nottingham, are now moving toward smoke-free outdoor areas too.

**M<sup>me</sup> France Gélinas:** What kind of regulation exists in the UK? Are youth allowed to buy them and use them?

**Dr. John Britton:** They are at the moment, but we will have an 18 limit from October, which is something I entirely support. We will also have tighter restrictions on promotion, to stop them being used, particularly as a medium to sell cigarettes through the back door. So we are putting in controls to protect young people and children, but I think these are proportionate controls.

What we don’t want—and what I would counsel against; that’s why I contacted you—is regulation that makes it hard for smokers to make the sensible choice to switch to electronic cigarettes.

**M<sup>me</sup> France Gélinas:** I just want to make sure: The answer you just gave was for e-cigarettes, not for normal cigarettes.

**Dr. John Britton:** Sorry, say again? The answer on?

**M<sup>me</sup> France Gélinas:** The answer you just gave me about regulations coming in the fall for young people not being allowed—

**Dr. John Britton:** Oh, sorry. No, young people can’t buy cigarettes. They haven’t been able to for a long time, since 2007. We went up from 16 to 18. But for electronic cigarettes, at the moment they can, but there’s a voluntary code that they shouldn’t, and it will become law from October.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Chair (Mr. Grant Crack):** From the government side: Ms. Kiwala.

**Ms. Sophie Kiwala:** Thank you very much for being with us today in voice—the voice of Dr. Britton, from Britain; that’s great.

**Dr. John Britton:** Thank you.

**Ms. Sophie Kiwala:** One of the things that I wanted to bring forward is that there’s a lot of conflicting evidence about e-cigarettes, which is one of the reasons why we’re looking at this legislation. It seems to all boil down to each of our interpretations of the limited amount of evidence.

I know that all of my colleagues in the Legislature are here in this role because they want to do the best for their citizens. I need to reiterate that this is precautionary legislation that we’re bringing forward.

Having said that, you’ve made some very impressive claims about the effectiveness of e-cigarettes as an alternative to cigarettes in Britain. But a study of English smokers just published in the journal *Addiction* found that regular e-cigarette use was associated with more smoking cessation attempts, not actual cessation.

Another study of English smokers published in *Nicotine and Tobacco Research* found that non-daily users of the most popular kinds of e-cigarettes were actually less likely to quit smoking than people who had never used e-cigarettes at all. How do you reconcile your claims with those peer-reviewed studies?

**Dr. John Britton:** Taking the second one, I think people who used to try it, don’t get on with it. I’m a clinician; I see smokers. I say, “Have you used electronic cigarettes?” “Yeah, I’ve tried it. It didn’t work.” So people who don’t find them effective will not use them regularly, and they need other help. But for those who do try them and use them regularly and exclude tobacco smoking, then they are a route out of smoking. As I’ve said, that has happened for three quarters of a million smokers in this country.

However, the other key thing about electronic cigarettes, as applies to Snus as well, is that these products are applying across the whole spectrum of smokers. It’s not those who go into their family doctor to say, “Hey, I’m thinking of stopping smoking. Will you help me?” It’s not that population. It’s the rest who never engage. So you have a great deal of experimentation amongst smokers to see whether these products work. It doesn’t necessarily mean that it’s the right one for them or it’s an

effective substitute for everyone. I've seen the figures, and I would take them with a pinch of salt.

The final thing to say is—

**The Chair (Mr. Grant Crack):** The final comment, sir.

**Dr. John Britton:**—that one solution to that, I suspect, is to build electronic cigarette use into the services that we provide for smokers, because they can be used with nicotine replacement therapy as a supplement and a socially acceptable supplement. So there are other ways around it.

**The Chair (Mr. Grant Crack):** Thank you very much for joining us, Mr. Britton, this afternoon. It's much appreciated. We enjoyed your comments.

**Dr. John Britton:** Thank you very much. Thanks for the invitation.

**The Chair (Mr. Grant Crack):** You're quite welcome.

**Dr. John Britton:** Bye-bye.

**The Chair (Mr. Grant Crack):** Bye now.

CANADIAN CANCER SOCIETY,  
ONTARIO DIVISION

**The Chair (Mr. Grant Crack):** Okay, from the Canadian Cancer Society, Ontario division, we have Joanne Di Nardo, senior manager of public issues. Welcome.

**Ms. Joanne Di Nardo:** Thank you.

**The Chair (Mr. Grant Crack):** You have five minutes.

**Ms. Joanne Di Nardo:** Good afternoon, Chair and committee members. I'm Joanne Di Nardo, senior manager of public issues at the Canadian Cancer Society, Ontario division. Thank you for the opportunity to speak to you today about how we can work together to build a healthier Ontario.

If passed, Bill 45 will prevent youth smoking, regulate e-cigarettes and help reduce obesity by giving Ontarians the information they need to make more informed dining choices.

The Canadian Cancer Society applauds Bill 45. We hope that the government will act quickly to pass and implement it, knowing that it has strong support from all political parties and Ontarians. The quick passage and implementation of this legislation will further protect youth from starting to smoke and would be groundbreaking for tobacco control in Ontario, across the country and globally.

It has been a long time that we've been advocating for a ban on youth-friendly flavoured tobacco, so it's not a surprise that we are very pleased with this legislation. The ban was tried both provincially and federally in 2010 but proved to be unsuccessful when the tobacco industry exploited loopholes in the legislation to keep their products on the market.

Flavoured tobacco products are no longer niche products; they are widely used by the majority of youth who use tobacco products. In Ontario, more than 57,000 youth in grades 6 to 12 have reported using a flavoured tobacco product in the last 30 days.

The inclusion of menthol in Bill 45 is both progressive and necessary. The rising use and popularity of menthol cigarettes amongst youth is concerning. More than 19,000 Ontario youth, or one in four who report smoking, say they are smoking menthol cigarettes. The society encourages the government to not delay the implementation of a menthol ban. The menthol ban should be implemented at the same time as the flavoured tobacco ban to both reduce public confusion and to prevent the tobacco industry from having more time to find new ways to target our youth.

One item not captured in Bill 45 is how to contend with flavoured cigarette papers that are currently available for sale in Ontario. A ban on flavoured cigarette papers when sold separately is included in US national legislation and in the recently introduced Bill 90 in Nova Scotia, and that's undergoing hearings as we speak. The society recommends that the committee consider including flavoured cigarette papers in the flavoured tobacco ban.

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Also important is that nearly four in 10 students believe smoking a water pipe is not as dangerous as smoking cigarettes, a belief that is simply wrong. Hookah lounges are becoming increasingly popular in Ontario, especially among youth. Some shisha contains tobacco and some, called herbal shisha, does not. Both are often smoked in cafés and restaurants. Hookah lounges are circumventing the Smoke-Free Ontario Act by claiming that shisha is an herbal mixture, yet tobacco enforcement officers have found there to be tobacco in the shisha mix, or sold to accompany the mix. This is particularly concerning as there are no age restrictions at hookah lounges for hookah smoking.

Studies from various jurisdictions have made clear that water pipe emissions, whether from shisha containing tobacco or from herbal shisha, are hazardous to anyone exposed to them, either by first-hand or second-hand smoking. We recommend that regulatory authority to control the indoor combustion of organic substances other than tobacco, like shisha, be added to Bill 45, so that an appropriate consultation on regulatory action on water pipe use can occur.

We welcome the proposed regulations on e-cigarettes. There's significant confusion over the legal status, and it's difficult for consumers to know with certainty what is in an e-cigarette. Concerns have been raised over the toxicity of nicotine vapour, other by-products of vaping and the health risk to non-users. Banning the sale of these products to youth is a necessary measure to curb youth smoking.

We would not object if an exemption on the display of products in speciality e-cigarette stores were to be made, given that certain conditions are met. These conditions have been outlined in detail in a letter sent to committee members here from the Ontario Campaign for Action on Tobacco. As we are a member of that coalition.

We strongly encourage the committee not to dilute Bill 45; keep it as strong as possible to have the maxi-

num impact in the fight against cancer. Upon proclamation, Bill 45 should be implemented as soon as possible. This bill is about cancer prevention and public health, safeguarding our youngest citizens.

Cancer is the single largest killer in Canada and the disease that is most feared by Ontarians. Each year we lose 13,000 Ontarians to tobacco use and our government spends \$1.9 billion in direct health care costs. Today, 11% of Ontario youth in grades 6 to 12 have reported using tobacco in the past 30 days. That's from the Youth Smoking Survey. With the vast majority of smokers starting before the age of 18, the need for stronger youth smoking prevention measures is great.

I would like to thank you for your time, and I'm happy to answer any questions.

**The Chair (Mr. Grant Crack):** Great job; right within time.

Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Pleased to see you, Joanne. My first question is a question I've asked pretty much everybody that has presented: Can you think of any reason why we should delay the ban on menthol? The ban on all of the flavours is contained in the bill, it's clear, but could you see any reason why we should delay the ban on menthol?

**Ms. Joanne Di Nardo:** We do not see a reason why we should delay the ban on menthol. If we're looking at Nova Scotia, for example—their bill has received second reading—they have included menthol with their flavoured ban. We would recommend that we see the same thing here in Ontario.

**M<sup>me</sup> France Gélinas:** We often hear about: If we ban flavours, if we ban menthol, then people will go to the black market. Do you really think that this is an exercise in futility?

**Ms. Joanne Di Nardo:** I think the most important thing is that we're preventing youth from smoking. We know that menthol is being smoked by young people, and not all young people live next to smoke shacks. We don't think that will be the case, and we think it will prevent cancer in the end by banning menthol.

**M<sup>me</sup> France Gélinas:** Okay. When it comes to the banning of the hookah pipes, I support the way you were going. There are also vapour lounges. Does the Canadian Cancer Society, or the Ontario division, have a position on those?

**Ms. Joanne Di Nardo:** We should be looking at age restrictions with regard to vapour lounges. Really, it is indoor smoking, and we don't know what's in those products. So we should seriously be looking at the regulation, or the complete outright ban, of those products. If we look at other jurisdictions, in Middle Eastern jurisdictions, or like Turkey, they have severely regulated shisha and hookah use.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Chair (Mr. Grant Crack):** We'll move to the government side. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thank you very much, Joanne. Great to have you here. Thank you for all the work at the

Canadian Cancer Society. I have a couple of advocates in my own riding. You might recognize these people: Jeff Brace and Karen White—

**Ms. Joanne Di Nardo:** Yes, we do.

**Mr. Lou Rinaldi:** I can tell you, they're attached at my hip. Jeff is a Rotarian, in the same club I belong to, and not one Friday morning goes by that we don't talk about the good work that the Canadian Cancer Society does, so thank you for that.

I know you touched on this in your opening statement, but can you—when we hear that there is scientific evidence that indicates e-cigarettes are not a health risk—we hear this every day. Can you elaborate, from the work that the Canadian Cancer Society has done, that there is a risk, I guess? Can you elaborate on that at all?

**Ms. Joanne Di Nardo:** There's a lot we don't know. They're less risky, it's true. They're less risky than a regular cigarette, but there's still a lot we don't know. There's a lot of research that needs to be done. This precautionary approach that's being assumed here in this legislation is a good one because we don't know, because there could be a risk and because they could be a starter product.

**Mr. Lou Rinaldi:** Following that: Did the Canadian Cancer Society do any work—we've heard from a previous deputant from the UK that this will help in cessation, that it's better than smoking cigarettes. Do we have anything about that?

**Ms. Joanne Di Nardo:** The same studies we would refer to are the ones that MPP Kiwala referred to in her questioning previously, though that study in Addiction and that study in the American Journal of Public Health has shown they're not really effective in cessation. We need more to find out.

Before we even go there, I think we need to understand that this product is not yet approved for use in Canada as a cessation product. We're not even there yet. That needs to happen before we start having that discussion.

**Mr. Lou Rinaldi:** Thank you, Chair.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Rinaldi. Mr. Walker.

**Mr. Bill Walker:** Hi, Joanne. How are you?

**Ms. Joanne Di Nardo:** Hi; good. How are you?

**Mr. Bill Walker:** We seem to speak on the same topic often.

I just want to cover a couple of things. One of the things I'm struggling with—and it's been interesting to hear all the deputations. You know how strongly I am against smoking, period, having lost my sister to lung cancer. But when you say "youth-friendly"—we've heard a lot of deputations saying the flavoured e-cigs are actually helping them quit smoking, so I've got a real dilemma: If that's going to help them—and the proof is out right now whether it's good or bad for them, but at this point, if they're stopping smoking, I think that's a step in the right direction.

I applaud the whole idea of the youth, but I think we have to be very conclusive of whether we're also prohibiting others that might be helping their health care.

I'm glad to see about the exemption on the products because I just actually had a briefing from the minister's staff and clarified some of that stuff, that, again, you can see alcohol at a Raptors game being advertised—to prohibit this—sometimes I think they've gone overboard in very small mom-and-pop shops. I want to see that happen.

Two of the things that I've certainly raised in the House and in this committee are—and I'd like to get your feeling on them. One of the things is that they have not included any type of a ban to make it illegal for youth to possess, use or sell cigarettes, which I believe is actually much more prohibitive. We have it with alcohol and it seems to work pretty good. If you get caught with it, there's a fine; there are reprimands. Would you support that being included in this bill?

**Ms. Joanne Di Nardo:** I wouldn't.

**Mr. Bill Walker:** You wouldn't?

**Ms. Joanne Di Nardo:** Would I support a ban on youth possessing tobacco?

**Mr. Bill Walker:** For legislation to be created so it would make it illegal for them to possess or sell.

**Ms. Joanne Di Nardo:** No, I wouldn't support that.

**Mr. Bill Walker:** You would not support that?

**Ms. Joanne Di Nardo:** No.

**Mr. Bill Walker:** Can I ask why?

**Ms. Joanne Di Nardo:** Because we've spent a lot of time trying to de-normalize the tobacco industry and to really point fingers at the industry for addicting our young people. As soon as we point those fingers at youth, we take the finger away from the industry, and the industry will continue to create products that are attractive to youth and get our youth addicted.

Also, there are other jurisdictions in Canada that have this type of legislation. I think Edmonton in Alberta, for example; Edmonton and—I forget the other jurisdiction at this point. But anyhow, what we found from those western provinces is that we don't have any reports of success. There's no great success there.

**Mr. Bill Walker:** I'm not suggesting it's an either-or, but I think it could have actually been something that would help make healthier choices, to make that illegal. We've all been youth. I didn't drink before because I was worried about getting caught. If you can smoke and have that in a schoolyard, I'm concerned.

In a similar vein, the other one that certainly is a concern is the contraband. I have two teenage boys. This doesn't have to be anecdotal or science-based. This is two people that I know pretty well saying to me, "Dad, most of the youth smoking that is happening isn't from e-cigarettes or from flavoured cigarettes; it's from buying a bag of 200 cigarettes for eight bucks as opposed to a carton for \$90."

Again, would you support contraband being part of legislation that would actually help to ensure that our youth do not have any easier access to tobacco?

**The Chair (Mr. Grant Crack):** Quick final comment.

**Ms. Joanne Di Nardo:** Yes, we definitely have some measures already in place, and we are in constant

communication with our Ministry of Finance and others about controlling contraband and further measures. We definitely support the continued controls around contraband.

**Mr. Bill Walker:** Thank you very much, and thanks for your efforts.

**The Chair (Mr. Grant Crack):** Thank you very much, Ms. Di Nardo, for coming this afternoon before committee. We appreciate it.

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#### RETAIL COUNCIL OF CANADA

**The Chair (Mr. Grant Crack):** Next we have the Retail Council of Canada. We have Alison Baxter, director of health and safety and industry relations; and Gary Rygus, director of government relations. Welcome to the two of you. You have five minutes.

**Ms. Alison Baxter:** Thank you for the opportunity to present to this committee today on Bill 45. My name is Alison Baxter. I'm the director of health and wellness and industry relations at the Retail Council of Canada. With me is Gary Rygus, our director of government relations, Ontario.

We'll be focusing our comments on schedule 1, the Healthy Menu Choices Act, 2015.

The Retail Council of Canada has been the voice of retail since 1963, and we have members who operate more than 45,000 storefronts nationally, 17,000 of which are here in Ontario. RCC represents Ontario's grocery retailers, with our members accounting for over 90% of grocery retail sales.

We wanted to begin our comments by indicating our support in general for menu labelling as an option to provide calorie information and enable Ontarians to make informed food choices.

Retailers have been active participants in supporting the health and wellness of Ontarians, both collaboratively as an industry, and as independent companies. They're also committed to ensuring that customers have accurate information that helps them make informed choices.

As the primary focus of this bill is for chain restaurants, it was drafted with that business model and consumer experience in mind. Although you can purchase ready-to-eat meals from the home-meal-replacement counter of a grocery store, behind the scenes, the operations are very different, from the highly regulated environment to product variability and the broad range of size and combination options. As a result, if menu labelling is to apply to grocery stores, it cannot be a one-size-fits-all solution.

RCC is recommending amendments and actions to ensure that the legislation will support consumers in making informed food choices; recognize the unique operations of grocery retail; be feasible to implement and enforce; and not conflict with existing federal requirements.

Given the time constraints today, we will focus on a few key points, and would direct committee members to



our written submission for more detailed recommendations.

The vast majority of products seen in the grocery store have nutrition labelling governed by the federal Food and Drugs Act and its regulations. It is absolutely essential that the Ontario government work closely with Health Canada and the Canadian Food Inspection Agency to ensure that the regulations for Bill 45, if passed, do not have unintended consequences or place retailers at risk of non-compliance.

It's also important to note that these items were explicitly excluded from the nutrition labelling requirements of the food and drug regulations due to the complexities inherent in providing this information for these items at the retail level.

One of our sector's largest challenges with the proposed bill is the vague definition of "standard food item," and understanding how this will apply to the unique operations of grocery retail. This definition, combined with the signage provisions, would require every item, size and potential combination to be labelled, posing significant implementation challenges. For example, consider the following common grocery retail items:

- fruit and vegetable trays, where the content is not standardized;

- combination meals where the sides are selected from multiple options, resulting in a high number of potential variations;

- family meals, such as a rotisserie chicken with vegetables and potatoes, where providing the calorie count for the whole meal would be misleading as it's not intended for a single person to consume in one sitting;

- sandwiches, where an ingredient like the cheese may change due to availability at the retail level;

- multiple sizes for items like take-away soups, where many containers are intended to be multi-serve, or containers where the customer selects the amount, and no standard serving size exists.

Our written submission outlines specific challenges and further examples, but as you can see, the unique grocery environment presents challenges.

The government must clarify the definition of "standard food item" to reflect the operations of grocery retailers by indicating that food items made in-store from non-prepackaged foods are not captured, as they are non-standardized; that "standardized for portion" intends single servings; and that only items that are marketed intentionally for single-serve are captured—for example, exclude produce, bakery, bulk bins, deli meats etc.

Not addressing these potential operational differences would significantly impact grocery retail operations, and we do not believe that that was the government's intent.

With respect to menu boards and signage, we would recommend that the provisions take an outcomes-based approach rather than the prescriptive nature of the bill. The objective is for customers to have information on calorie content of foods at point of purchase. This can be achieved in many different ways, and the differing layouts of grocery store deli and HMR counters requires flexibility.

While restaurants typically identify their foods and pricing with a single menu board and/or menu, grocery stores identify foods and prices through individual shelf tags, product signs, menu boards and pamphlets. Furthermore, there are regularly 100 to 150 items of hot and cold deli items that can potentially change on a regular basis. At a minimum, more compliance options should be included and the provision should be changed to allow for the use of the option that works best under the circumstances.

Maintaining section 5, as written, rendering any municipal bylaws that would impose similar requirements inoperative, is essential to retailers' continued support of the proposed legislation.

We would ask that the regulations apply only to items that are available for a minimum of six months. This would allow grocery retailers to continue to innovate, test new items with consumers and offer new seasonal specials. Should those items become standard menu items, the menu labelling rules would of course then apply to them. Additional proposed exemptions are highlighted in our full submission.

We strongly encourage the government to maintain the current focus on calories. The government should take the time to understand how the legislation works focused on calories before potentially expanding the scope.

We would like to thank the committee again for the opportunity to share grocery retail's perspective on Bill 45. We look forward to continuing to work with MPPs and the government on this initiative. We would welcome your questions.

**The Chair (Mr. Grant Crack):** Thank you very much, Alison. You are a speed reader out loud. That was great.

**Ms. Alison Baxter:** I was trying to fit it in the five minutes.

**The Chair (Mr. Grant Crack):** Good for you, and right on time, by the way. So we'll start with the government.

**Ms. Ann Hoggarth:** Good afternoon. Thank you very much for your presentation. You packed a lot in there. Could you tell me, please: Were you consulted by the government on the proposed menu labelling legislation?

**Ms. Alison Baxter:** Yes.

**Ms. Ann Hoggarth:** Thank you. I think you said that you believe that calories are the most appropriate nutritional information to post on menus.

**Ms. Alison Baxter:** Yes.

**Ms. Ann Hoggarth:** Okay. Bill 45's menu labelling is not overly prescriptive; rather, implementation will be detailed through regulation, giving the government flexibility to respond to the many challenges that you outlined—and a lot of them there. Are there any particular concerns that are the most important concerns you'd like to see addressed through regulation?

**Ms. Alison Baxter:** Through regulation, there's certainly a long list of concerns. I think, though, that the most important are around those questions we raised

about the unique situation in grocery retail, where you really do have a lot of variability. It's not quite like the restaurant setting, where the dishes are standardized. There could be variability in terms of the ingredients. There's variability in terms of how often things change. When you start talking about combination meals, there are so many different variations that something like that that might work in a restaurant setting doesn't quite apply to retail. Really, I think I would describe it more broadly as having the opportunity to work with government on the regulations, to understand the retail operations and make sure that there's a set of regulations that works specifically for that environment.

I would also add that a big concern for our members is making sure that there aren't any conflicts with the federal food and drug regulations, because certainly we are a very highly regulated environment in grocery retail. There are a lot of requirements around nutrition labelling and nutrition claims, and our members, of course, always want to be in compliance, so it's important for us to make sure that the regulations under this legislation, if it's passed, wouldn't put us in any challenges with those regulations.

**Ms. Ann Hoggarth:** But you do agree that there's flexibility within this bill?

**Ms. Alison Baxter:** Absolutely we think that there's flexibility within the bill. However, there are some sections—if you talk about the bill itself, for example, around the signage, I think there could be a little bit more flexibility within the legislation in that section. That would address some of our concerns.

**Ms. Ann Hoggarth:** Thank you. We'll take your concerns back.

**The Chair (Mr. Grant Crack):** Thank you very much. Mr. Walker.

**Mr. Bill Walker:** Thank you very much. It's nice to see someone else talk so fast. I usually get teased about that in the House, and my word count.

One of the things that I really note in here is the exemption from the federal mandatory nutrition labelling, because of the complexity and variation that occurs in store preparation. That's certainly something that, from constituents and deputations that I've heard from, is absolutely critical. The volume you handle is one of the things that we're trying to make sure we safeguard. Nobody's arguing that there isn't a better way to be healthier—I mean, who's not going to step up and support that? But it is the complexity, it is the ability for your retailers to ensure that they can comply, because most people don't want to be in non-compliance.

The other item, I think, is in regard to municipal bylaws. I can certainly understand your concern from that perspective, that if one jurisdiction implements something different from another, it's confusing to the consumer; it's certainly confusing to the industry. At the end of the day, we want people to find this as convenient, factual and consistent across the board as possible. I think you're supporting that.

Are there any real specific areas—particularly as we get into the more formal part of the bill and actually

going back and forth, clause by clause—that really jump out at you, that you really want the committee to take specific focus on?

**Ms. Alison Baxter:** Again, I think, in terms of the actual language in the bill, that if there was an opportunity to clarify the language around what a standard food item is, that could likely provide a lot of reassurance to our members. It's something that I think was drafted with the intent of the restaurant industry in mind, as they are the primary focus, and it's a much more complex thought when you try and move that to grocery retail, so some work to add some of the specificity we've recommended in that definition.

And again, as I mentioned earlier, around the options for signage: I believe the provision right now requires that it's an “and” provision, so it has to be posted in both places, and there are fairly specific requirements as to what that is. For grocery retailers, they might not always have that option, or it might not be as economically feasible given how frequently things change, so we'd like to see that perhaps you could have a stand-up sign on top of the deli counter that lists the items, along with their nutritional information; something that has that flexibility in it, I think, would be a good change.

**Mr. Bill Walker:** The other piece I think I noted in there is certainly a time frame that allows you to address an issue. If they're going to make regulation and just spring it on you—I'm not saying they will do that, but at least to have some minimum guidelines: “If you're going to bring new regulations, we need a minimum of”—whatever it would be; six months, a year or two initially.

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But I'm even meaning as we go on here, that if they're going to bring in—we've heard a lot of deputations talking about sodium, and that may be something that gets added. Again, for you to change your labelling to stay consistent, particularly respecting your ability and the volume that you have to deal with—I don't think anyone's really pushing back on this. Let's do it in a pragmatic, manageable, consistent manner so that you have the ability to adapt and not be in non-compliance.

**The Chair (Mr. Grant Crack):** Thank you, Mr. Walker. Final comment?

**Ms. Alison Baxter:** No, that's okay.

**The Chair (Mr. Grant Crack):** Very good. Thank you very much. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** My question is along the same line as Bill's, in the sense that we have until noon tomorrow to make amendments to the bill. A lot of what you read into the record, to me, are things that will become more meaningful once the regulations are written. But if there are specific showstoppers in the bill that could not be clarified in regulations—the only one I have highlighted for now was the definition of “standard food item.” This definition is in the bill. Do you have an alternate definition you would like us to use, or are you leaving it to my creative mind to define that?

**Ms. Alison Baxter:** Certainly, I'd be happy to recommend some specific language around that. What we've

put forward are components that we've considered that should be included. The language that we've suggested I haven't written as the language for clause-by-clause consideration, but that language—and I know similar language has been used in other jurisdictions—talks about items that are intended and marketed for single-serve. That's the kind of language that we've put forward that we'd like included.

**M<sup>me</sup> France Gélinas:** That's problematic. We all know that Kentucky Fried Chicken buckets are not for single use, but that is captured by the bill. I have gone down this path before to try to find a new definition, and it led me nowhere. So if you have something, send it forward and we will see.

The rest of what you put down: None of what I see in the bill—and I know this bill very well—would preclude anything of what you see. Am I right or wrong? Do you see something else in the actual language of the bill that needs to change?

**Ms. Alison Baxter:** I think, again, the comment with regard to the signage. If I was to put forward a specific amendment, that would be one I would raise.

In terms of some of the comments that we've heard from other deputants, I would want to make sure that as the members here are going through clause-by-clause—I believe section 5 talks about municipal bylaws—it's very important to our industry that that section is maintained. I think that that is another thing that we'd put forward for your consideration.

**M<sup>me</sup> France Gélinas:** Okay, thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate the both of you coming forward this afternoon. Have a great afternoon.

#### DR. GOPAL BHATNAGAR

**The Chair (Mr. Grant Crack):** Next we have Mr. Gopal Bhatnagar with us this afternoon. Welcome, sir.

**Dr. Gopal Bhatnagar:** Thank you very much.

**The Chair (Mr. Grant Crack):** I hope I pronounced that correctly.

**Dr. Gopal Bhatnagar:** Absolutely; very well done.

**The Chair (Mr. Grant Crack):** Thank you. The floor is yours.

**Dr. Gopal Bhatnagar:** Thank you very much for having me here this afternoon. I understand my name came up in the Legislature, and I'd be happy to address that during the question period, but I wanted to keep my presentation within time.

I did want to start off by saying that I believe we're all here for the same reason. I loved the presentation that I heard from a representative from Cancer Care Ontario, because I think that we cannot regulate tobacco strongly enough, and we're certainly here to try and improve the health of all Ontarians.

I'd like specifically, though, to address some concerns and comments that I had around the regulations on what has been termed the electronic cigarette. Given the short amount of time, I just wanted to emphasize a couple of things, because they come up repeatedly.

The gateway hypothesis, as put forward by Mr. Tom Frieden of the CDC and FDA, has been the mainstay of some of the opponents and some of the discussions around precautionary harm and the claims made and maintained by several agencies that electronic cigarettes lead to the use of combustibles, especially in minors. Dr. Britton, in fact, referred to this—this is the most recent CDC study out—and you can see here that these are the statistics that were referred to. If you read the CDC report online, you'll see in fact that they highlight the fact that e-cigarette use did rise, and that's certainly true. They also noticed that, between 2011 and 2014, the rates of tobacco use were quite flat in youth. However, when we see the rise of electronic cigarette use in the youth survey here, we see there's a dramatic decrease that's been unprecedented in the use of tobacco products.

I show you these statistics simply because these are reproducible in Germany, as well as in the United Kingdom, that show indeed that the availability of electronic cigarettes does not seem to have any effect or certainly does not increase youth smoking. The hypothesis that kids use electronic cigarettes and then switch to combustibles is without any scientific basis to extract that conclusion.

Much has been made about the toxicity—that, “We don't know about the vapour.” It would take an hour or two to go through a comprehensive analysis of the science behind vapour, but it is very well known now. Three years ago, I wouldn't make that statement, but the analysis of vapours is a simple chemistry experiment.

There are some concerns about heavy metal cadmium, but the main concern that has been espoused in literature is that of formaldehyde. There was a paper in the *New England Journal of Medicine* that much was made about. A press release by the *New England Journal of Medicine* itself was done. What's not quite advertised is that the lead authors themselves distanced themselves from the *New England Journal of Medicine*'s conclusions. Those conclusions were that there was a great deal of formaldehyde created in electronic cigarette use and vapour—very, very concerning. I think we all understand that formaldehyde is toxic.

But let's look at what really happened. The formaldehyde was created by a situation called dry vaping. What that is, of course, is when the battery power is maximized—you crank the battery to maximum—and you essentially get what vapers call “burning the coil.” That means you create a situation of extraordinarily high temperatures beyond what would normally be used, and it creates this fume.

This does two things: It destroys people's devices, so they're voluntarily destroying something that's worth maybe hundreds of dollars. It also creates a fume that is so noxious that it's not inhalable by a human being any more than once by air. So yes, you can create formaldehyde in experimental situations, but it is not created in a user environment. In fact, even the original FDA studies agree that no formaldehyde is created unless you vaporize or you burn the e-juice at over 260 degrees Celsius.

E-cigarettes usually function at around 60 degrees Celsius.

But there are different types of products as well. Up on the top is the very first generation, the simplest device, and on the bottom are the more modern or third-generation devices. It's important to make the distinction, because they are different. This is one study—again, I will not read the slide, but it does show that it's important to understand that with the first-generation devices there is dual-use, which is of concern. But as we become more sophisticated in the technology, the smoking cessation rates rise and dual-use declines.

That's important because third-generation devices are far more technologically comprehensive. They require consumer support. When people go into vape shops to buy these devices, they need to understand how they're being used. If, in fact, it cannot be properly demonstrated, we have dissatisfaction. We have people returning to smoking. This is of particular concern to me because I think that specialty and boutique shops should be allowed to be able to demonstrate and promote these devices within the store environment.

**The Chair (Mr. Grant Crack):** Final comment, sir.

**Mr. Gopal Bhatnagar:** Thank you very much.

Precautionary harm: I do believe that enough data has accumulated in terms of the science of vaping that this, although it occurred three years ago, is now no longer valid. I do have a number of suggestions that I thought were reasonable, and I certainly advocate that lifestyle advertising should be something that should be prohibited. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll have to move on. I appreciate that.

**Mr. Gopal Bhatnagar:** Of course. I understand.

**The Chair (Mr. Grant Crack):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you for your presentation; much appreciated. I take it you've seen the bill, the different levels of regulation. We'll take them one by one: Any problem with not letting kids buy those products?

**Mr. Gopal Bhatnagar:** Absolutely not. I think that any reputable vaper has not looked to sell this to minors.

**M<sup>me</sup> France Gélinas:** Okay. We've heard that there's lots of variation in the actual flavour cartridges. Any problem with putting in some regulations so that no matter where you buy it, we know what's in there?

**Mr. Gopal Bhatnagar:** Absolutely. Manufacturing standards are something that everybody should be arguing for. It's only a positive thing so that consumers understand what they're getting in a consistent fashion.

**M<sup>me</sup> France Gélinas:** You seem to put a lot of emphasis on people needing help making the right choices if they want to be successful. Would that help come in a corner store or will it come in a store that only does that?

**Mr. Gopal Bhatnagar:** It's a matter of expertise and time. If you walk into a Petro Canada or you walk into a variety store and you buy a device from a non-vaper, they cannot explain at the time. It's not cost-effective for them. They don't have the expertise.

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We know there have been two studies: one recently from Polosa out of Italy and one by Dr. Hickman that show that people who purchased in specialty shops and have that support have increased cessation at the end of one year.

**M<sup>me</sup> France Gélinas:** So adult-only specialty shops with people who know what they're teaching.

**Dr. Gopal Bhatnagar:** Yes.

**M<sup>me</sup> France Gélinas:** How do we know that they know? What if the owner is not there and he asks his daughter that day to sub in?

**Dr. Gopal Bhatnagar:** It's absolutely true. I think it's likely impossible to suggest that we have a certification course for vapour technicians, but at the same time if you were to take it from a business model perspective, if you don't have customer satisfaction, then I think it's a business that's going to die off.

The vast majority of sales in vaping, as it's grown now, has been word of mouth. People who have used it successfully and had a good experience have suggested it to others.

**Mr. Mike Colle:** No pun intended.

**Dr. Gopal Bhatnagar:** Thank you.

So in that, I think if poor customer satisfaction is present, then the business is not viable.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll move to Ms. Kiwala from the government.

**Ms. Sophie Kiwala:** Thank you very much for being here today. You're the founder of 180 Smoke—

**Dr. Gopal Bhatnagar:** One of them, yes, ma'am.

**Ms. Sophie Kiwala:** —a company which produces and sells e-cigarette products with nicotine in Canada. Have your products undergone the rigorous testing and application process through Health Canada that other smoking cessation and nicotine replacement products are required to go through?

**Dr. Gopal Bhatnagar:** Well, ma'am, we never claimed at this point in time to be a smoking cessation product or a nicotine replacement therapy.

**Ms. Sophie Kiwala:** Have your products ever gone through the rigorous testing?

**Dr. Gopal Bhatnagar:** We have self-imposed regulatory standards. Our products are sent out to an independent lab.

**Ms. Sophie Kiwala:** Not through Health Canada, then?

**Dr. Gopal Bhatnagar:** Not through Health Canada.

**Ms. Sophie Kiwala:** Okay, thank you. Are you comfortable with the fact that the company that you founded is illegally selling nicotine products?

**Dr. Gopal Bhatnagar:** I take strong exception to the word "illegal."

**Ms. Sophie Kiwala:** Just by Health Canada's standard—

**Dr. Gopal Bhatnagar:** Then that's two different things. There is a regulatory interpretation by Health Canada. We did legal due diligence with our council here in Ontario and have been in touch with the regulatory

authorities and Health Canada. We have, as yet, not heard back from them from our submission.

**Ms. Sophie Kiwala:** A report from the World Health Organization recently concluded that e-cigarettes do not produce merely water vapour but pose threats to adolescents and fetuses, and increase the exposure of non-smokers and bystanders to nicotine and a number of toxicants. Do you share their concerns?

**Dr. Gopal Bhatnagar:** No, ma'am, I do not. I understand that nicotine itself is known to create problems in pregnancy, so that is certainly a separate matter. That requires regulation and clear warning on the product; there's no doubt about that, just like alcohol does.

**Ms. Sophie Kiwala:** Thank you.

**Mr. Mike Colle:** I have a question.

**Dr. Gopal Bhatnagar:** Yes, sir.

**The Chair (Mr. Grant Crack):** Ms. Kiwala has the floor, so I—

**Mr. Mike Colle:** She's giving me the floor, I think.

*Interjection.*

**Mr. Mike Colle:** No?

**Ms. Sophie Kiwala:** So whether the risk is benign or not, the risks are there. The risks are there if a child gets a hold of one of these vials; the risks are there if an inappropriate mixture is used and made by a retailer. There are significant risks there if it's used improperly. You've demonstrated the technical details of the equipment, and there are definitely risks there. There are lessons needed in order to be able to use them—

**The Chair (Mr. Grant Crack):** Thank you very much, Ms. Kiwala.

**Ms. Sophie Kiwala:** —so we're erring on the side of caution.

**The Chair (Mr. Grant Crack):** We'll move over now to Mr. Hillier.

**Mr. Randy Hillier:** Just for the record, you are a cardiac surgeon. You are a professor at the University of Toronto.

**Dr. Gopal Bhatnagar:** That's correct, sir.

**Mr. Randy Hillier:** I'm not going to ask you too many questions. I do want to read into the record—the Liberal Party tabled three reports today to justify their position. One is from the *New England Journal of Medicine*. If the Liberal members would read it, it says, "Whether e-cigarettes will prove to be a gateway to the use of combustible cigarettes and illicit drugs is uncertain...." That's from the *New England Journal of Medicine*.

One of the other reports that was tabled to justify the gateway view was the intention to smoke, not actually smoking—just the intention.

The third one, which Dr. Britton from Britain mentioned, is that the increased use in e-cigarettes in that particular school in Hawaii was also viewed as a corresponding and significant drop in actual tobacco use. I just wanted to get that on the record for the member for Kingston and the Islands.

You've put forward some good views. Have you ever seen in your career people who are non-smokers coming

in and wanting to use vaporizers and then progressing on to tobacco after?

**Dr. Gopal Bhatnagar:** My practice is limited to cardiothoracic surgery. I try and separate that entirely from my professional practice.

Again, based on data, not just my opinion, over 96% of existing vapour users are current smokers or ex-smokers. Based on the large-scale data from both Germany as well as looking at non-smokers who use electronic cigarettes, it's the same number of people who have never smoked, but still go and buy nicotine gum at a pharmacy. There are people who just like the nicotine. They buy the gum with nicotine. You don't need to prove you're a smoker. The same number of people use vapour containing nicotine.

**Mr. Randy Hillier:** It's hard to believe anybody would go and buy nicotine gum. I've tasted it; it's not—

**Dr. Gopal Bhatnagar:** There's some propensity in people to want to smoke, whether it be the ritualistic behaviour or the nicotine itself. I neither smoke nor vape, but I empathize with the health outcomes.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Bhatnagar, for coming.

**Dr. Gopal Bhatnagar:** Dr. Bhatnagar—I do want to ask for the Chair's indulgence, because I do believe that certain comments have been made that impugn my professional reputation. I've been a cardiothoracic surgeon for 15 years. I have absolutely every pecuniary advantage when I suggest operations to people. I did so in my clinic today. I've always done so, based on the evidence and the science of cardiothoracic surgery, and would never suggest an operation or an intervention to any one of my patients. I approach vaping in the same way.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate that.

**Dr. Gopal Bhatnagar:** Thank you.

**Mr. Joe Dickson:** A point of order, Mr. Chair.

**The Chair (Mr. Grant Crack):** A point of order from Mr. Dickson.

**Mr. Joe Dickson:** Thank you, sir. I just want to reassure, through the Chair, that it is our job, perhaps, to question or to ask questions of our guests, not to make ongoing, continual statements citing a policy. You can ask those questions in that format, as a question format. That's the way I've raised it, and I've done it that way for 30 or 40 years.

I just mention it to the Chair—and I don't want to pursue it actively.

**The Chair (Mr. Grant Crack):** Thank you. I'm not sure it's a point of order, but I thank you for bringing it forward.

#### 7-ELEVEN CANADA INC.

**The Chair (Mr. Grant Crack):** Next on the agenda we have, from 7-Eleven Canada Inc., Mr. Victor Vrsnik. He's the government affairs manager. I hope I pronounced that right, as well.

Welcome, sir. You have five minutes.

**Mr. Victor Vrsnik:** Thank you, Chair. I thank you for the opportunity to present before the Standing Committee on General Government. I'm Victor Vrsnik. I'm the government affairs manager for 7-Eleven Canada. I'm here to speak specifically to the healthy menu choices provision in Bill 45.

7-Eleven operates 500 corporately owned stores from Ontario to British Columbia. Our 100 7-Eleven stores in this province employ approximately 1,000 Ontarians.

Our goal is to be the best retailer of convenience for our customers and to be the top retailer on regulatory compliance.

7-Eleven stores are always evolving to respond to the changing needs of our customers. We also recognize that we have a social responsibility to provide our customers with healthy, fresh and nutritious options while meeting their convenience needs.

As part of that effort, we have taken a proactive approach to healthy eating by implementing a program called Better Choices in all of our 500 stores in Canada, including Ontario, which began in the new year. Better Choices provides our customers with access to healthy food and beverage items and transparent nutrition information to help our customers make more informed choices.

Under the program, each of our stores displays a nutrition quick reference guide—that looks like this—in the area of the store where non-packaged food and beverage items are displayed. Maybe I'll just pass this along, with your permission.

The guide provides information on calories, sodium and 12 other core nutrients for approximately 200 non-packaged food and beverage products. Better Choices products, both packaged and non-packaged, also have shelf tags to help customers identify the most healthy and nutritious options, including fruit and vegetables, water, dairy, grains, meats, snacks and mixed entrées.

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7-Eleven is supportive of the government of Ontario's objective of increasing nutrition transparency and the availability of healthy and nutritious food and beverage items carried by chains.

We support the government's efforts to partner with the retail sector on implementation of this bill. The implementation, however, could present some challenges to retailers like 7-Eleven who introduce between 200 and 400 new products in their stores every year.

By way of background, 7-Eleven stores introduce a new cycle of products approximately every six months. Products that do not meet sales targets after a few months are slated for discontinuation. Even for a discontinued product, it can often take several months to work through the sales cycle of receiving and selling fresh product, so until these contracts come to an end. In order to help retailers successfully implement Bill 45, 7-Eleven proposes a six-month phase-in period that would allow for retailers to test the sales of new products without incurring undue costs associated with menu labelling.

Another challenge is that, under Bill 45, our stores could be required to create more than 200 calorie labels

or tags for all of our unpackaged food and beverage products. Requiring a separate calorie label or tag for every size and flavour of coffee, for example, would lead to signage creep that could defeat the purpose of the labelling. Therefore, we recommend that the government allow retailers to post an average of calories for similar food and beverage items that are within a plus-or-minus range of 20%.

Finally, should the government consider future actions to require retailers to post more detailed nutrition information, such as sodium, sugar and fat, we would recommend that the government adopt a model similar to the 7-Eleven flipchart that's making its way around. The nutrition platform would enable customers to make more informed choices about their food and beverage purchases in an accessible manner.

Thank you to the committee for your time, and I welcome any questions.

**The Chair (Mr. Grant Crack):** Thank you very much, sir. We appreciate that. We're going to start with the government side: Ms. Hoggarth.

**Ms. Ann Hoggarth:** Thank you very much for your presentation. I'd just like to ask: Have you considered whether more information for consumers about the calorie count will aid in product sales testing?

**Mr. Victor Vrsnik:** Absolutely; more information for customers is the goal of our program. That's why we're reaching towards nutrition transparency by creating a list of products with 13 core nutrients, including calories, sodium and fat. I think the better armed our customers are, the more informed choices they'll make and presumably the more healthier choices they'll make as well.

**Ms. Ann Hoggarth:** You are happy that there will be stakeholder consultation as we proceed with this bill?

**Mr. Victor Vrsnik:** Yes. We have already consulted with the ministry, and we look forward to another opportunity as well.

**Ms. Ann Hoggarth:** You're also happy that there's flexibility, that nothing is carved in stone at this point?

**Mr. Victor Vrsnik:** I guess we'll see how it goes in the process of the development of the regulations. But, so far, when we met with the ministry, they were very open and, I'll admit, very professional in their approach, and we think that there's an opportunity to further continue the dialogue on how these regulations may be rolled out.

**Ms. Ann Hoggarth:** Great. We hope we can work together. Thank you.

**Mr. Victor Vrsnik:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. Mr. Walker from the official opposition.

**Mr. Bill Walker:** It's a pleasure to have you. Thank you so much. Can you just share with me a little bit more of the experience with BC? It seems to me that what you're suggesting is not unreasonable; that by doing either the flip menu or however it's going to be, you've got a large volume of products that are coming and going all the time. Has that worked well in BC? Has there been any follow-up to say that that did work and that the consumer at the end of the day was getting what really

the intent of this bill is: their ability to make healthier choices regardless of whether it's a label or a sign?

**Mr. Victor Vrsnik:** I think British Columbia is maybe a couple of months behind Ontario, as Bill 45 was, I think, announced in 2014. There's a new bill—I think it's Bill 14—in British Columbia that's very similar on the other aspects of Bill 45. But in British Columbia, they've taken more of a voluntary approach. They led the charge with Informed Dining, for instance. We've tried to align our program with Informed Dining, and that's why we've developed the nutritional transparency flip-chart. We've also called out products that align with the BC government's—and maybe this is the point you're getting at. The BC government has a policy on products that go into government buildings, and they have a very high nutritional standard. So we've called out the products in our stores that align with the highest nutritional standard that the BC government expects for the public in their buildings.

**Mr. Bill Walker:** What I'm trying to gauge is, certainly yourself and the Retail Council of Canada, who were on before you—looking at the implication and the actual logistics of changing labelling and the continual turnover in that—if you've got something that's in there that gives me, as a consumer, the ability to look and say, “What's healthy and what's not healthy?”, I don't really care if it's on a label or on a nice little flip sign. That's more where I was going. There are different ways to inform the consumer. Respecting that you have a high volume and items that change on a fairly regular basis, getting into the labelling could actually lose the baby with the bathwater, because now you're saying, “I'm not even going to go down this road.”

**Mr. Victor Vrsnik:** Well, if our customers don't reference our guide, what they will find is that there are a number of products in our store that have a little label that says, “Better Choices.” This label aligns with the high standards of the BC government's nutritional requirements for government buildings. So that is there in our stores in BC, Ontario and across Canada right now. That's a quick way for our customers to make a better choice.

**Mr. Bill Walker:** I think everybody is supportive of information that's going to help us. The delivery method isn't always—it has to be this one or this one; you might have found one that works even better than what the label is, so let's work with you.

**Mr. Victor Vrsnik:** And I would just add that if the government were to consider sodium down the road, for instance, this nutritional flipchart might be a better platform because it just becomes a bit difficult for our stores with small real estate and so many products to have so much information on a tag. I say “signage creep” because eventually people just phase it out and they won't even—it'll lose its impact.

**The Chair (Mr. Grant Crack):** Thank you very much. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I know that you know the bill very well. My first question has to do with the six months

for new products. Is there something in the bill that leads you to believe that this could not happen under regulations? Did you see something in the bill that triggered to you that the moment you put a new product out you will have to have the calorie count on them?

**Mr. Victor Vrsnik:** Well, I guess my understanding of the bill is that for now it applies to all products in the store, all food and beverage products. So that is why we're seeking the exemption and understand that maybe that could be addressed in the bill or in regulation, but I guess that is up to the government, the committee, to make recommendations on.

**M<sup>me</sup> France Gélinas:** Okay. And the idea of being able to regroup food items that are very close to one another—you have put the number of calories at 20%. I have no idea if you have done the math, but if we were to regroup within a 10%, how many of the groups would explode?

**Mr. Victor Vrsnik:** Okay, well, I don't have that number for you. I could research that and get back to you on that.

**M<sup>me</sup> France Gélinas:** Okay. Just so you know, the deadline for us to make amendments to the bill is tomorrow at noon.

I listened carefully to what you've said, and the two flags that I got are making sure that when a new product is introduced, there is a grace period, and you would like this grace period to be six months. I will make sure that the bill does that. It was my understanding that there was flexibility in the bill to do this, but I'll check again.

The other one is the grouping. There has always been the intention of grouping. At 20%, we could maybe strike a balance. I was thinking 10% and you're thinking 20%; how about we settle on 15%?

**Mr. Victor Vrsnik:** We'll saw off at 15%.

**M<sup>me</sup> France Gélinas:** The idea is that it was always in the bill but you did not see it, so it could mean that we need to clarify that.

**Mr. Victor Vrsnik:** Okay. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. Just a reminder: It is 3 p.m. for the deadline for amendments tomorrow for all three parties—3 p.m.

Thank you, Mr. Vrsnik, for coming before the committee this afternoon. It's much appreciated.

**Mr. Victor Vrsnik:** Thank you very much.

**The Chair (Mr. Grant Crack):** You're welcome.

#### CANADIAN FRANCHISE ASSOCIATION

**The Chair (Mr. Grant Crack):** We have with us the Canadian Franchise Association. There are three members here. I will ask you to please come forward and introduce yourselves. Welcome.

**Ms. Lorraine McLachlan:** Thank you for having us. I'm Lorraine McLachlan. I'm the president and chief executive officer of the Canadian Franchise Association. Joining me is Larry Weinberg, a partner at Cassels Brock and Blackwell. He is also the chair of our legal and legislative affairs committee at Canadian Franchise Associa-

tion. To my right is Erica Kelsey, our director of government relations.

**1710**

Thank you for having us here today to speak on the topic of Bill 45, the Making Healthier Choices Act.

The Canadian Franchise Association was founded in 1967 and is the authoritative voice for franchising in Canada. We have over 600 corporate members nationwide representing many of Canada's best-known franchise brands and over 40,000 franchisees, as well as many small and/or emerging franchise brands.

Franchising is an economic engine for Ontario and Canada and generates over \$68 billion for the Canadian economy. Franchising directly and indirectly employs over one million Canadians, and 88% of our members operate in Ontario.

Franchises operate in every community and riding in Ontario and provide benefits to those local communities through new jobs and spending within those communities.

CFA's purpose is to promote excellence in franchising, holding the industry and our members to high professional standards, including best practices and a code of ethics that all of our members must abide by. We promote proper due diligence and provide education for franchisors, franchisees as well as those seeking franchise opportunities. To that effect, we are looking to keep franchising healthy and to keep the integrity and professional standards that our members enact on a daily basis.

CFA recognizes that Bill 45's threshold for compliance is a chain of foodservice premises with 20 or more foodservice premises in Ontario, which may or may not include franchisors. This threshold of 20, we understand, is arbitrary, just as 19 or 22 would be, and we assume that the number was chosen to ensure that a burden isn't placed on small businesses to comply. That is understood.

While 35% of our members operate in foodservice, our purpose here is not to discuss the content or intent of Bill 45, the Making Healthier Choices Act. We have a specific purpose to address, and that is to discuss the bill's reference to franchising in particular.

The concern that we have is simple. In subsection 1(2) of the bill, franchisors are defined as "a person who owns or operates a regulated food service premise." That is factually incorrect. The relationship between a franchisor and franchisee is an independent, contractual relationship. A franchise is a business relationship bound by a contract, often called a "franchise agreement," between the franchisor and franchisee. The franchisor has developed a concept that is owned by him and is the owner of the trademark and operating system. The franchisee is licensed to use the trademark and operating system for a set period of time, as defined by the contract.

Franchisees are independent small business owners. Franchisees are responsible for the activities of their business and the running of the day-to-day operations of the business, including who they hire, how much they pay their employees and how they schedule their employ-

ees. They file their own taxes, maintain ongoing training of their employees etc. They are responsible for their own debt and obligations and to ensure their own compliance with applicable law. The franchisee is not a glorified manager. They are the owner and operator of a small business and have always had the rights and responsibilities of a small business.

We make this distinction not because we suggest that all the responsibilities of this bill should be placed on the franchisee but to provide you with the clarity on the unique and distinct roles of franchisees and franchisors. The balance of control and the distinction of liability should respect and reflect the nature of the franchisor-franchisee relationship and be fair and consistent, as well as keep franchising as an attractive investment opportunity for both parties.

Franchising is a business model, and each franchise differs in form and function. Applying a blanket approach is not something that can be done. It must be considered that the franchisor may not be the supplier of the menu items or ingredients. In many cases, there are a number of approved suppliers who are third-party companies. In this case, those suppliers or food manufacturers may also have a role to play in terms of compliance with this act.

We recommend that roles and obligations be defined in the regulations in this act in a way that is fair and appropriate. We are happy to consult with the government in that case. However, it is something that will require care and attention in order to ensure that there is no undue or unfair burden placed on any party.

Aside from the fact that the definition in subsection 1(2), is factually incorrect, the result of making the franchisor liable for the independent actions of the franchisee will have consequences. It makes the franchising model too risky, less attractive and thus may undermine future growth, including new jobs and economic input.

**The Chair (Mr. Grant Crack):** Thank you very much. I apologize, but we're quite a bit over.

**Ms. Lorraine McLachlan:** The rest is in the paper that you have.

**The Chair (Mr. Grant Crack):** Thank you kindly. Mr. Walker?

**Mr. Bill Walker:** Just a point of clarification on your deletion of section 3.2—sorry, 1(2). You just want that totally out of there, and the main reason is because of wording that is too over-specific and actually inhibits some of your concerns.

**Ms. Lorraine McLachlan:** Yes, we would like that section removed.

**Mr. Bill Walker:** And then (b) in section 3: Is it, again, that you're just trying to clarify? You really want to distinguish that this is the person operating as opposed to you.

One of the questions that I've been asked by a couple of delegations is—and it's really just a clarification for me. If I use a Tim Hortons, for example, I trust some things that they would choose as a product are sent by head office, if you will, to that shop in Bruce-Grey-



Owen Sound. So you may very well be the person who is responsible for negotiating the labelling on that item, as opposed to the franchisee. Is that an accurate statement?

**Ms. Lorraine McLachlan:** In some cases, yes.

**Mr. Bill Walker:** Yes. So the challenge, I think, becomes sometimes the ambiguity of, is it really you as the franchisor or the franchisee who is really in non-compliance? I can see a situation where it could be one or the other.

**Ms. Lorraine McLachlan:** And that's why we would like to work—but if I may, part of the issue is that if a franchisee has the information and fails to provide it to the customers, we do not want the franchisor—

**Mr. Bill Walker:** To be liable, sure.

**Ms. Lorraine McLachlan:** —being held liable. That really is the heart of the concern.

**Mr. Bill Walker:** Sure, and I guess the opposite being that if someone has something in their store on a shelf and it's been changed but you as the franchisor central hasn't changed it, I could see where they could be in the same thing, if it's not something within their controls to remove.

I think the intent is, again, for both of you to understand who's liable, who's responsible, and your interest is really just clarifying that to make sure that it's black and white going into this. So that amendment would be your expectation?

**Ms. Lorraine McLachlan:** Yes.

**Mr. Bill Walker:** Any other specific interests, just in case you didn't get the time to finish? I tried to read the whole paper while you were speaking as well.

**Ms. Lorraine McLachlan:** Thank you. No, it was really subsection (2)(b), removing the words "owns" and "franchises or licenses".

**Mr. Bill Walker:** As you do this across the country, are there other provinces that have legislation that you think—wording that's already in effect that we could utilize?

**Ms. Lorraine McLachlan:** Not that we are aware of at this point.

**Mr. Bill Walker:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I knew that you were going to be coming with this request, so I have talked to many lawyers at Queen's Park. There's many, many of them around here—always handy. I'm having a really tough time. A lot of the restaurants that will be captured by Bill 45 operate under a franchise system, so to take it out completely is sort of a non-starter. So, then, I really tried to address what you were talking to us about, which is how we make sure that if it's the responsibility of the franchisee versus the franchisor, the legal responsibility falls at the right place.

So just to make sure that this is what you're after: What you're after is not to say that all of the Tim Hortons, McDonald's, Pizza Huts and all of the franchises wouldn't have to do menu labelling—that's not what you're after. What you're after is to make sure that

the responsibility for failure to comply rests with the right level.

**Ms. Lorraine McLachlan:** That's exactly correct. One of the things that we find is problematic is that people assume that the franchisor can exert a significant level of control in all areas over the franchisee, and that is not the case. For a franchisor to exert control inappropriately puts them in violation of other legislation. This is one of the challenges we wanted to bring to your attention.

**M<sup>me</sup> France Gélinas:** Okay. It will be the health units who go in, and if there's ever a non-respect of Bill 45, they would issue fines, some of them quite big. They would have to have the amount of flexibility to really ascertain who it is that made the mistakes or didn't comply. Is this what you're after? I don't want to put words in your mouth.

**Ms. Lorraine McLachlan:** Yes, it would be a reasonable outcome.

**M<sup>me</sup> France Gélinas:** Okay. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll move to the government side. Mr. Dickson?

**Mr. Joe Dickson:** Thank you, and welcome. MPP Colle has asked to share my question time, so I will do that. I'll combine my 10 questions into one.

I wonder if you could just expand a little more on the liability scenario. I'd like some clarification between franchisee and franchisor and where the liability falls. I just look for a general statement on that.

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Also, would you agree with implementation of this bill with not necessarily full legislation, but regulations which give the government some flexibility and give the people on the other end some flexibility as well? I just leave those two with you for starters.

**Ms. Lorraine McLachlan:** I'll defer to Larry on this.

**Mr. Larry Weinberg:** Well, I think it's a fundamental concept of franchising that a franchisee is an independent owner of a business responsible for their own compliance with applicable law. And to Ms. Gélinas's point, we don't look for franchisors to escape all responsibility, but the responsibility should rest with the person who owns the business. In many cases, the contracts between franchisor and franchisee don't necessarily obligate or require or give the franchisor the power to dictate all products used in the restaurant.

When you think of franchising, you think always of Tim Hortons, McDonald's and Pizza Hut, but not everyone runs that way. And so the legislation, as drafted right now, doesn't qualify between a franchisor that dictates the recipe and all the menu items and those that don't; it just says that franchisors are deemed to be owner-operators.

From my perspective—and again, I'm not a legislative drafting lawyer, but I've been doing franchise law for 25 years—there are very many different kinds of franchisors in this province, dictated, I should add, by the legislation that governs franchising in this province.

**Mr. Joe Dickson:** And you're fine with the regulations, sir? I'm just trying to give Mr. Colle some time for a question.

**Mr. Larry Weinberg:** Well, I'm not sure you can correct it entirely by the regulations because the act says that a franchisor is a franchisor, is deemed to be an owner-operator.

**The Chair (Mr. Grant Crack):** Thank you very much. There are seven seconds, so I don't think you're going to have time, Mr. Colle.

**Mr. Mike Colle:** Seven seconds. Forget it.

**The Chair (Mr. Grant Crack):** I apologize for that.

I believe that's it, right? We did all three? I'd like to thank you all for coming forward this afternoon and providing us with some interesting insight.

**Ms. Lorraine McLachlan:** We remain at your service.

**The Chair (Mr. Grant Crack):** Thank you very much. Where can I eat?

#### ONTARIO SOCIETY OF NUTRITION PROFESSIONALS IN PUBLIC HEALTH

**The Chair (Mr. Grant Crack):** Next on the agenda we have the Ontario Society of Nutrition Professionals in Public Health. We have Ms. Renée Gaudet.

**Ms. Renée Gaudet:** You say it so lovely. I don't speak French; I wish I did.

**The Chair (Mr. Grant Crack):** Oh, you don't? Je m'excuse.

**Ms. Renée Gaudet:** That's okay.

**The Chair (Mr. Grant Crack):** Welcome. You have five minutes.

**Ms. Renée Gaudet:** Thank you. I'm here on behalf of the Ontario Society of Nutrition Professionals in Public Health. We represent over 200 registered dietitians that are working in the Ontario public health system. We support menu labelling as a population health strategy that helps consumers make informed choices. I've provided you a copy of our key messages on this topic, as well as a letter that outlines two of our recommendations around amendments to Bill 45. I'm going to use my time today to speak about our priority recommendation, and that's the inclusion of sodium alongside calories in the bill.

Ontario has shown its commitment to improving the health of children and families through the action plan for health care and the Healthy Kids Panel report. They're clearly invested in the creation of healthy communities that support children's health.

Menu labelling is an opportunity to support children's health—

*Interruption.*

**Ms. Renée Gaudet:** Is there an issue?

**The Chair (Mr. Grant Crack):** Well, there's going to be a vote and we're just waiting to see what time. Unfortunately, we knew this was going to happen. It's a technicality in the House.

**M<sup>me</sup> France Gélinas:** You can keep on going. It won't be for five minutes, for sure.

**Ms. Renée Gaudet:** Menu labelling is an opportunity to support families to help them make decisions about children's diets. No one would argue that healthy weights and obesity prevention aren't top priorities for Ontario children. Therefore, it makes sense that calories would be listed on menus in Ontario food premises, yet OSNPPH believes there is strong evidence related to sodium consumption.

Nearly 25,000 people in Ontario die of cardiovascular disease, close to two million Ontarians are living with asthma and 14,000 are hospitalized due to stroke every year.

Even my own children can't tell you about what it takes to prevent chronic disease, yet they could tell you how to protect themselves against Ebola or protect themselves from getting the flu virus. Yet we aren't seeing those types of deaths and people with illnesses related to those diseases.

The average Canadian consumes 3,400 milligrams of sodium per day. That's more than double the recommended adequate intake of 1,500 milligrams for adults and 1,000 to 1,500 milligrams for children. In fact, almost the entire population exceeds the upper tolerable limit beyond which health risks start to be seen.

Most importantly, 77% of children aged one to three and 93% of children aged four to eight exceed the upper tolerable limit for sodium consumption. According to Stats Canada, 27% of children aged four to eight ate something from a fast food restaurant the day before they were surveyed. That number jumps to 40% for adolescents aged 14 to 18. It would be okay if they were choosing healthy food choices, but they're choosing things that are high in sodium, like pizza, hamburgers, hot dogs and some sandwiches and wraps.

A recent study examined the sodium content of menu in Ontario restaurant chains and found that the average menu item in a sit-down restaurant had 1,455 milligrams of sodium. That's 97% of the recommended intake in one menu item. The average children's menu item had 790 milligrams of sodium. That's 66% of the recommended intake. Even scarier, there are certain categories of foods, like stir-fries and ribs and sandwiches and wraps, that exceed the tolerable upper limit in one meal.

There is public support for menu labelling. Your own government has pointed out that the vast majority of Ontarians support menu labelling. And there are national opinion polls that suggests that over 80% of residents want to see both calories and sodium labelled on Ontario menus.

I've worked in public health for 16 years, and in that time I've celebrated alongside colleagues who have had success in the area of tobacco control and alcohol consumption with strong public policy. Every single year as a nutrition professional in public health we look to those examples and we try to learn from them to help us implement healthy public policy in the area of nutrition. Never once in those 16 years have I felt as confident as I

do today about the evidence that you have regarding the consumption of sodium.

Sodium consumption levels are alarmingly high. Sodium content in both sit-down and fast food restaurants is extremely high. You have the government mandate, you have the support of the public, you have the legislative framework right in front of you. Don't delay this decision until future amendments of this bill.

OSNPPH urges you to add sodium now. It's the right thing to do. Thanks.

**The Chair (Mr. Grant Crack):** Thank you very much. Right on time. We'll start with the government side.

*Interjections.*

**The Chair (Mr. Grant Crack):** Okay. I apologize. I was going to try to get at least two questions in, but there is a vote in five minutes and a half. So we'll go do the vote and we'll come back.

**Mr. Bill Walker:** Mr. Chair—

**The Chair (Mr. Grant Crack):** Mr. Walker? Is this a point of order?

**Mr. Bill Walker:** Yes.

**The Chair (Mr. Grant Crack):** Some of the committee's left, so—

**Mr. Randy Hillier:** It's okay. So ask for unanimous consent.

**The Chair (Mr. Grant Crack):** What's the question?

**Mr. Bill Walker:** My unanimous consent is to extend the deadline for Bill 45 amendments to 10 a.m. on Friday, April 24, to allow more consultation and ensure we have the best legislation possible.

**Ms. Sophie Kiwala:** We've got a bell—

**The Chair (Mr. Grant Crack):** Okay, so—

**Mr. Randy Hillier:** Well, we've asked for unanimous consent.

**Mr. Bill Walker:** So we can discuss it when we get back.

**The Chair (Mr. Grant Crack):** Is there unanimous consent?

**Interjection:** No.

**The Chair (Mr. Grant Crack):** The committee is suspended until such time as the vote is over. I encourage everyone back here as quick as possible so we can provide the questions to Ms. Gaudet. As well, we have Toronto Public Health after.

*The committee recessed from 1728 to 1739.*

**The Chair (Mr. Grant Crack):** We will call the meeting back to order. We just heard from Ms. Gaudet concerning her presentation. I will pass it now to the government side. You have two minutes for questioning.

**Ms. Sophie Kiwala:** Thank you. Thank you very much for being here, and so sorry to have to run out on you like that. That was awful.

Were you consulted by the government on the proposed menu labelling legislation?

**Ms. Renée Gaudet:** We've been involved over several of France Gélinas's bills in the past. We've had lots of input. When it was first introduced in 2013 by the government, we made submissions then and participated

in the consultations that occurred on several aspects. We haven't been consulted this particular year, but we've been involved, I would say, since 2012.

**Ms. Sophie Kiwala:** Excellent. Okay. Why is a contextual statement regarding daily calorie requirements important?

**Ms. Renée Gaudet:** Well, it's kind of like saying that this menu item has 500 calories, but what does that mean to you? What does it mean in the context of how much you should eat as an adult or a child? Without having the contextual information, it doesn't really provide meaning to the consumer. So we advocate for that to be included.

**Ms. Sophie Kiwala:** In addition to influencing consumers, could menu labelling influence food service providers to offer healthier choices, and is that something that you're hoping for through this bill?

**Ms. Renée Gaudet:** Absolutely. It's interesting that a lot of the evaluative studies that have been done on menu labelling in the US and jurisdictions that have already introduced menu labelling have always studied the outcome of healthy weights. As an outcome, does it help improve healthy weights? We don't necessarily see that as the outcome that you should be measuring, because the outcome that might occur is the reformulation of product so that the industry doesn't have to have menu items meeting 97% of the recommended intake in one item.

We are very hopeful that this population health strategy will result in reformulation of the items that are offered to Ontarians at restaurants. We've seen that when we introduced labelling on packaged foods. You started seeing industries make claims around the fat content, the sodium content, the cholesterol, when cholesterol was a big craze, and trans fat, when trans fat was a big craze—

**The Chair (Mr. Grant Crack):** Thank you very much. We'll move to Mr. Walker.

**Mr. Bill Walker:** Thank you very much. Sorry for all the confusion around your deputation.

I certainly support your inclusion of that contextual information. It's very important. And to your point, it would have been nice to also see a public campaign, an education campaign that would actually accompany this bill, as opposed to some of the things that the government has done in my three years here, wasting money on a lot of things that aren't going to make your children aware.

It was interesting yesterday—I think it was the first time I heard, and the number is the same: 71% of the public surveyed wanted sodium included. So I find it, again, very strange that the government hasn't already. I'm hopeful that they'll be open to amendments to hear that. I think being able to ensure that both children and adults can understand—"Boy, I can pick this or I can pick this, and this really is my consumption," because I think that's one thing that we really don't, as individuals, pay enough attention to at this point, and it can have a significant difference.

Are there any municipalities, any provinces, any areas that you think we can copy that have had that success by putting the sodium? Can you share with me another province or a state or somewhere who has that?

**Ms. Renée Gaudet:** There aren't any in Canada.

**Mr. Bill Walker:** Anywhere else in any of your studies or any of your research?

**Ms. Renée Gaudet:** I'm not aware of anywhere that has included sodium. Definitely, there are examples that have included calories. In voluntary approaches there have been examples of providing more than just calories and sodium, providing more information than that. But no, not as a legislative approach.

**Mr. Bill Walker:** Thank you. Do I still have time left, Chair?

**The Chair (Mr. Grant Crack):** You have 20 seconds.

**Mr. Bill Walker:** Thank you. May I move that the deadline for amendments to Bill 45 be extended to 10 a.m. on Friday, April 24, to ensure that we can actually spend as much time as possible to implement amendments that are going to make sure this legislation truly is making it the most healthy choice.

**The Chair (Mr. Grant Crack):** I'm going to rule, Mr. Walker, that we're going to continue with the questioning towards the deputants. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you so much, Renée, for being here. Again, sorry about the kerfuffle, but we had to go vote.

Given everything that you have told us—I sort of already know the answer, but I've asked it to everybody, so I'll ask it to you too—can you think of any good reason why we should not move with sodium labelling at the same time we move with calorie labelling? Is there value in the incremental approach rather than, "Let's get this done. Let's get this done right," with calories and sodium in Ontario in the near future—which would be months away, but both of them at the same time, rather than one now and one in a future yet to be determined, if ever?

**Ms. Renée Gaudet:** My short answer would be, there's absolutely no value in waiting. I think it needs to be done now. The evidence is strong. There's no reason for us to delay it, and in delaying it, we're putting Ontarians at risk. We do every day. People don't know what they're eating at restaurants, and they need to know. So I don't think there's any value in delaying. It should be done. I should have been done when you first introduced it.

**M<sup>me</sup> France Gélinas:** Agreed. My next is to add reference value, contextual value. The way the bill is written now, it basically leaves it to regulations. The argument behind it is that those values could change over time and you wouldn't want to have to go back. But all that you're asking is that in the bill we see that reference and contextual values be added to the menu or menu board, but those actual values, whether it be 1,700 milligrams of sodium or 2,000 calories, would be made in regulation. I don't want to put words in your mouth, but is this what you're asking us to do?

**Ms. Renée Gaudet:** Yes. The bill would state that a reference value or a contextual statement be required, but then the regulations would stipulate how that would be worded and what it would look like.

**M<sup>me</sup> France Gélinas:** Very good. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate it. Thank you very much, Ms. Gaudet, for coming before committee. Again, we apologize.

**Ms. Renée Gaudet:** Thank you.

#### TORONTO PUBLIC HEALTH

**The Chair (Mr. Grant Crack):** Next on the agenda we have, from Toronto Public Health, Mr. David McKeown, medical officer of health. Welcome, sir. You have five minutes, followed by—

**Ms. Sophie Kiwala:** Excuse me, Mr. Chair. I have a point of order. Do I do that now or—

**M<sup>me</sup> France Gélinas:** Later—

**The Chair (Mr. Grant Crack):** Is it a procedural type of point of order? I'll hear the point of order and then I might have to cut you off.

**Ms. Sophie Kiwala:** Okay. I just wanted to clarify something that was read into the record yesterday by a member of the opposition, Mr. Hillier.

**M<sup>me</sup> France Gélinas:** That's not a point of order.

**The Chair (Mr. Grant Crack):** No, that's not a point of order, but thanks. Good try.

Mr. McKeown.

**Dr. David McKeown:** Good afternoon. Mr. Chair, members of the committee. Thank you very much for the opportunity to appear before you today. My name's David McKeown. I am the medical officer of health for the city of Toronto and the executive officer of the Toronto Board of Health. I'll be speaking on behalf of both of us with respect to Bill 45 today.

I would like to state up front that Toronto Public Health, the organization I work with, and the Toronto Board of Health commend the government for taking the step to bring forward this bill, which I believe will be an important measure to improve the health of all Ontarians. The board of health and I have been advocating strongly for many of the changes included in this bill over the past two to three years. We're very pleased to see that the science is being brought to bear on public policy in this area.

In addition to the written submission that was sent to this committee on behalf of myself and the board of health, there are just two of the issues that I'd like to speak to you verbally about today.

First, the current menu labelling proposal does not require sodium values to be posted alongside calorie counts on the menus or menu boards at restaurant chains that the proposed legislation would govern. I heard you having this conversation with the previous speaker. The evidence from analysis of menus from major chain restaurants in Canada has shown that many restaurant foods contain high levels of sodium as well as calories. In fact, a University of Toronto study revealed that the average sit-down restaurant meal, with entrée and side dishes included, what we would normally eat, contains 56% of an adult's daily calorie requirements but 98% of

an adult daily limit for sodium. We know that intake of excess sodium can lead to a range of different serious problems for health, including high blood pressure, heart disease, stroke and kidney disease.

If we were to reduce sodium intake in our population to the recommended level for good health, this would decrease the incidence of hypertension, for example, in Canada by about 30%, and that's a very big change in population health. It would represent more than 23,000 cardiovascular disease events fewer per year across the country, an amount which would equal about \$18 million in direct and indirect health cost savings.

The evidence is that current unhealthy sodium intakes can be reduced in part by providing the right information to consumers. For example, a University of Toronto study again revealed that about one quarter of participants would change their menu selection after seeing calories and sodium added to the menu. Another study by the University of Waterloo found that 38% of participants reported that nutrition information on the menu influenced their choice.

In addition, there is emerging evidence that what restaurants put on their menus influences what the restaurants do themselves. This is certainly not unexpected when we look at transparency initiatives for food safety and pollutant inventory release. Transparency does make a difference in the behaviour of organizations.

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There's also, fortunately, evidence that consumers would support this requirement. A recent panel survey of about 3,000 Canadians found that 75% would like to see calories on the menu and 71% would like to see sodium values. These are by far the two nutrients that, when asked, poll recipients are most interested in seeing. These findings were similar for a subsample here in Toronto; about 79% would like to see calories and 74% would like to see sodium values posted. So this is something that consumers want. Current evidence does support that the posting of both calorie and sodium values on restaurant menus is important, and they should both be reflected in the final legislation which is passed.

I'd also like to speak briefly to proposed changes to the Smoke-Free Ontario Act. I'm very pleased to see that the proposed bill includes a number of important measures that we and other advocates have been arguing for, such as additional powers for local public health inspectors to be able to test the products used in water pipes—this has been a real barrier for enforcement—and increasing enforcement mechanisms and fines, in particular providing clarity on where e-cigarettes can be used and prohibiting the sale of e-cigarettes to minors.

Also, I'm very pleased to see that the Smoke-Free Ontario Act will be amended to ban the sale of all flavoured tobacco products in Ontario. This is important. A recent University of Waterloo research study found that more than half of youth tobacco users in grades 9 to 12 used flavoured tobacco products. These are very attractive for young people starting to smoke. Nearly a third of those smoked menthol cigarettes, so this

demonstrates youth's preference for flavours, and the strong appeal of menthol cigarettes in particular.

I would ask the committee, however, to amend Bill 45 by adding that the ban on flavoured tobacco products be effective immediately, essentially on the date that the bill is proclaimed into law, and by removing section 6.1(3), which appears to unnecessarily allow for an exemption clause for the banning of designated flavoured tobacco products. It might treat some flavours differently than others. I don't think there's any justification for that, based on our understanding of how flavoured products attract youth.

I'd like to end by recommending that, for any of the provisions of the legislation which are intended to be enforced by local boards of health such as ours, sufficient funding be provided to enable credible enforcement. I think credible enforcement is an important part of introducing any kind of legislative change, particularly during the introductory period of the new requirements.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate your input. Mr. Walker?

**Mr. Bill Walker:** Thank you, Dr. McKeown. A couple of quick ones. One would be that certainly sodium has come up a number of times, both today and yesterday. I think that's one that we've all kind of had brought to our light. I think it's important to keep it simple, so one of the concerns I have is that I think the regulation allows more and more to be added. My concern would be that sometimes if we get too much, we might actually confuse, so the more simplistic the better.

Is there any reason why, similar to sodium, sugar wouldn't be one of those other keys? Because I think it's one of those ones, as well, that certainly may impact who eats or drinks what product.

**Dr. David McKeown:** When we looked at both the science and the policy implications of making this information available—clearly, you can't have too much on a menu; it just won't fit, for one thing. The argument for calories and sodium as the top two, if you like, I think is very strong, both in terms of consumer demand, impact on health and what the research says about impact on people's behaviours. I wouldn't go much beyond the two. I think that information on all of the nutrients should be available, but not on the menu.

**Mr. Bill Walker:** Right. Thank you. The other is on e-cigarettes. A lot of the deputations that came forward and those who have sent it in have said, actually, that the flavour certainly has an impact on those using that product as a cessation tool or a lifestyle choice. My one concern is that I understand what you're saying with the youth and if that's inducing them, but on the other hand, what we heard from a lot of the adults who are trying to quit smoking tobacco is that that is a big piece for them.

My fear would be that if we go one way, what do we gain and what do we lose on the opposite side? Certainly, as someone who has lost a sister to lung cancer, I would much rather err there. I think there are things that are also enticing youth to smoke. I've raised contraband here a number of times, and making it illegal for youth to actually possess and/or sell tobacco.

Can you just give me a little bit there? I know time is running out.

**Dr. David McKeown:** In terms of e-cigarettes, I think we need to treat them—we really don't know how e-cigarettes are going to unfold. It's a new kind of nicotine delivery system. I think that the measures in the bill are a good initial step to hold the tide, so that we're not seeing sales to minors and we're not seeing as wide availability in use as we might see.

In terms of their use as a cessation aid, if they can be shown through good science to be an effective cessation aid, then they should be regulated in the same way as all the other cessation aids. I don't think that there's anything in the bill that would prevent that.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate that. We shall move to Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I will repeat myself, but I ask everyone. You're the last one, so I will ask you also: Can you see any reason why we should not move forward with sodium labelling at the same time as calorie labelling? Is there an argument to be made that we should roll out the calorie labelling and, sometime down the road, at a date yet to be thought of, we will roll out sodium?

**Dr. David McKeown:** I can't think of any argument for that. In fact, if I was a restaurant operator, I would probably rather change the menus once rather than twice.

**M<sup>me</sup> France Gélinas:** And be done. Okay, the next question is very similar: Can you think of a valid reason why we would not ban menthol at the same time as we ban every other flavour of tobacco?

**Dr. David McKeown:** None at all.

**M<sup>me</sup> France Gélinas:** No. The science doesn't support it—

**Dr. David McKeown:** Treating it differently? No, not in my view.

**M<sup>me</sup> France Gélinas:** Okay. There's also a section in the bill that prohibits agencies like yours from going further than what the bill has. That specifically has to do with the calorie labelling. If we only do go with calorie, and sodium is not added, has the Toronto Public Health unit ever looked at regulating for your jurisdiction?

**Dr. David McKeown:** If the provincial government had not moved forward with this legislation, we would have looked at that, doing it locally. I understand the usefulness of having a level playing field across the province, but we've also often seen public policy advance through innovation at the local level, which demonstrates feasibility, demonstrates public acceptability. Then we can see how it can be done on a larger canvas.

**M<sup>me</sup> France Gélinas:** Although I support the statement that you've made, that you want resources for credible enforcement by the health units of those new measures, I doubt if this is something you will see in the bill. But I certainly support making sure that the bill comes with teeth, and if people are not respecting the calorie labelling or the flavour ban or whatever, that the health units have the resources to make sure that they comply with the law.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll move to the government side. Ms. Hoggarth.

**Ms. Ann Hoggarth:** Good afternoon. I'd just like to say that I'm definitely an advocate for children and youth, being a former elementary teacher, and I think Bill 45 will help to protect children and make them live at least as long as this generation, and right now that's not what the research says is going to happen. So I'm very pleased with this bill, and I do believe that there's flexibility in it. Do you believe there's flexibility in this?

**Dr. David McKeown:** I believe the measures in the bill are an important way of protecting children from tobacco, for example, and of course when they're making their own decisions, in restaurants, from excess exposure to sodium and calories.

**Ms. Ann Hoggarth:** Good. Are you concerned that having different regulations in different towns and cities across Ontario may be onerous on business and confusing to consumers?

**Dr. David McKeown:** I think that is a real issue. We, certainly, when we try and legislate at the local level, try and work with surrounding jurisdictions to try and keep the playing field level for business. However, I don't think that should stop us from doing the right thing for the health of the population.

**Ms. Ann Hoggarth:** Okay. Were you consulted by the government on the proposed menu labelling legislation?

**Dr. David McKeown:** I actually reported to my board of health on this matter before the government brought the legislation forward, so we were advocates. We did have an opportunity to provide input in the earlier consultations in 2013.

**Ms. Ann Hoggarth:** Do you believe Bill 45 takes an appropriate approach to regulating e-cigarettes in Ontario?

**Dr. David McKeown:** Yes, it's very close to the approach that I recommended to the board of health.

**Ms. Ann Hoggarth:** Thank you so much for your presentation.

**Ms. Sophie Kiwala:** I would like to correct the record.

**The Chair (Mr. Grant Crack):** Thank you very much.

Ms. Kiwala, on a point of order to correct your record.

**Ms. Sophie Kiwala:** To correct a record, yes. There was a statement read into the record yesterday by the member from Lanark-Frontenac-Lennox and Addington—

**The Chair (Mr. Grant Crack):** Is it a point to correct your record on what you actually said?

**Ms. Sophie Kiwala:** Not my record.

**The Chair (Mr. Grant Crack):** Okay. It's only permitted that a member can correct their own record. So it's not a point of order.

**Ms. Sophie Kiwala:** Okay.

**M<sup>me</sup> France Gélinas:** But it would be very cool if we could do what you're doing. I've been wanting to do this for a long, long time.

**The Chair (Mr. Grant Crack):** We're going to be adjourning at 6, according to the Clerk, so you have a few seconds. Mr. Walker.

**Mr. Bill Walker:** That's all I need, Mr. Chair. I would like to move that the deadline for amendments to Bill 45 be extended to 10 a.m. on Friday, April 24, to ensure that we have the ability to include as many of the amendments that we've heard in our deputations.

*Interjections.*

**Mr. Bill Walker:** It's only an extra couple of hours. It allows—

*Interjections.*

**The Chair (Mr. Grant Crack):** A little bit of order. Order, please, as I consider the motion. Thank you very much.

Mr. Walker has moved extending the deadline. The deadline has been set by this committee—it was done on

April 13—for 3 p.m. tomorrow, which is April 23. Is there any further discussion? What are you extending it to, Mr. Walker?

**Mr. Bill Walker:** I would ask that we extend it to 10 a.m. on Friday, April 24.

**The Chair (Mr. Grant Crack):** Ten a.m. on Friday.

**Mr. Bill Walker:** Because of budget day tomorrow, we're not going to have much time in the afternoon—

**Mr. Mike Colle:** Just keep stalling and stalling.

*Interjections.*

**The Chair (Mr. Grant Crack):** So unfortunately, it is 6 o'clock.

**Mr. Bill Walker:** You're not going to call the vote.

**The Chair (Mr. Grant Crack):** I can't call the vote. The meeting has to be adjourned. I apologize. I was good before, but this meeting is adjourned.

*The committee adjourned at 1800.*

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