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**Official Report
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Monday 27 April 2015

**Journal
des débats
(Hansard)**

Lundi 27 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**

Monday 27 April 2015

Lundi 27 avril 2015

The committee met at 1401 in committee room 2.

**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 sur les cigarettes électroniques et la modification de la Loi favorisant un Ontario sans fumée.

The Chair (Mr. Grant Crack): Good afternoon, everyone. I'd like to call the meeting to order.

This is the Standing Committee on General Government. Today, we are here to deal with 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'd like to welcome everyone: all members of the committee, the Clerks' office, Hansard and members of the public who are here this afternoon.

As the first order of business, we will continue with a motion that Mr. Walker put on the floor prior to the termination of the last committee meeting.

I will read the motion. On Wednesday, April 22, Mr. Walker moved "that the deadline for amendments to Bill 45 be extended to 10 a.m. on Friday, April 24, 2015."

Immediately after the motion, as I mentioned, the committee adjourned as a result of it being 6 p.m. So the motion that was on the floor, and is on the floor, is the first order of business that I have to finish up.

As the motion proposes a timeline for the committee's work that is now in the past and would not affect an action—the filing of amendments to Bill 45—that has already been completed by the members of this committee, I rule that the motion is no longer in order.

We shall now move to clause-by-clause consideration of Bill 45.

Are there any introductory questions or comments prior to beginning? Ms. Kiwala.

Ms. Sophie Kiwala: Good afternoon, everyone. Before we begin clause-by-clause, I would like to say that I

was very impressed with everyone who came before this committee and provided very thoughtful deputations on this important bill. I know that all of my colleagues on the committee—the committee members from the government, the official opposition and the third party—very much appreciated each presentation, and we're grateful to everyone for taking the time to answer our questions.

Again, I would like to say thank you to all the deputants who appeared before the committee or provided a written submission. Thank you for your advocacy.

I especially want to thank the youth who appeared before the committee. They were most impressive and did a fantastic job.

I also want to acknowledge all my colleagues on the committee, who have worked hard in considering Bill 45 at the committee stage. I know that we all look forward to clause-by-clause deliberation.

I know that we have all-party support for this important piece of legislation, and that is fantastic. I realize that my colleagues, and also all Ontarians, look forward to this bill moving forward and back to the House for third reading.

The three pieces of legislation that make up Bill 45, each with their own distinct schedule, have at their core the idea that if we eat better, exercise more and smoke less, up to 90% of type 2 diabetes, 80% of coronary heart disease and one third of cancers can be avoided. Prevention is a key part of staying healthy, and we can help ensure that Ontarians have the information they need to make better choices and stay healthy. We can help to protect Ontarians, especially the youngest among us, from dangers and potential harms to their health and well-being.

Bill 45, if passed, will do just that. That is what these three pieces are about: helping the people of Ontario and making sure that youth have the best possible chance to lead a healthy life.

At this time, I would like to note that despite some claims, this legislation does not ban e-cigarettes or flavours of e-liquid. The strength of Bill 45 is that it is a precautionary piece of legislation that does not leave the health of Ontarians to chance. That is why, in the case of the legislation on e-cigarettes, the language is flexible enough that, should new and reliable scientific evidence show that they are an effective cessation tool and do not have harmful, long-term side effects, the regulations can be adjusted accordingly. But until such time, and in the absence of definitive evidence, responsible government is

obliged to err on the side of caution and protect those under 19 from starting to vape.

We have listened to the concerns of the specialty e-cigarette retailers and we believe that this is the best way to go about addressing these concerns, and that is through regulations and consultations. Should Bill 45 pass, the government will be open to giving strong consideration to exempting specialty e-cigarette retailers from the proposed retail display ban.

Again, I know that we all look forward to clause-by-clause and getting this important legislation back to the House for third reading as soon as possible. Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Kiwala. Do we have any other questions or comments?

Mr. Jim McDonell: I'm just wondering—it's kind of funny at this stage, but you're looking at "strong consideration." Is there not some firmer direction than—everybody has heard those types of words before. They don't mean a lot, other than that somebody who has brought something forth may think of changing their mind. I'm just surprised at the comment.

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

Mr. Bill Walker: Thank you very much, Mr. Chair. I just want to express my concern and disappointment in regard to that motion that I put on the floor last week, not being able to be there to allow more members of the public to have their say. I don't think from Thursday to Friday it would have had a serious implication from a negative perspective. It would have allowed people who were engaged and wanted to be engaged to speak, and I'm saddened that the government wouldn't allow that to happen.

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Ms. Gélinas.

M^{me} France Gélinas: I too would like to thank everybody who got engaged. We did get an awful, awful lot—not awful—in a good way. We got a lot of comments on this bill, which is great. It's great to see democracy in action where people actually get involved. It made our work extremely difficult to turn the comments that we heard into amendments that could be supported in a piece of legislation, which means that you will see, as you go through—I worked with counsel as best I could, but some amendments didn't get it right the first time. You will see, as we go through the list of amendments, that some of them—simply because of time.

I would really like us to learn from this. If the Clerk tells us that they have already received hundreds of requests to be heard, maybe it's not that wise to go through Monday, Tuesday morning, Tuesday afternoon, Wednesday afternoon and then on the Thursday we need to have all of this done.

It doesn't do justice to the people who—frankly, it's not that easy to come to Queen's Park, especially when you come for the first time, and those people did put in the time, the effort, the energy to come and talk to us. I

would like to be respectful in hearing what they have to say, but I still have to do my work as an MPP to bring those changes forward. The turnaround time was not realistic. So: Lesson learned. Next time we schedule those things, let's ask the Clerk—if they already have 100 people who are waiting to be heard, let's give ourselves more than 16 hours between the last person we hear and the deadline for amendments to be in. That was tough for everybody. You will see that a lot of my amendments still need work.

1410

The Chair (Mr. Grant Crack): Thank you very much. Any further comments? There being none, we shall move to clause-by-clause consideration. Before you, you have schedule 1. There are no amendments.

Interjection.

The Chair (Mr. Grant Crack): Oh, section 1, sorry. Shall section 1 carry?

Mr. Mike Colle: Recorded vote, and, Mr. Chair, could we have a recorded vote on all votes, please, on sections and amendments?

The Chair (Mr. Grant Crack): That request is in order so we shall move forward with recorded votes on each and every section and amendment.

Shall section 1 carry? Those in favour.

The Clerk of the Committee (Ms. Sylwia Przewdziecki): Mr. Colle, Ms. Kiwala, Ms. McMahan, Ms. Vernile—

M^{me} France Gélinas: Chair, I'm not sure what section 1 refers to.

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

M^{me} France Gélinas: I suppose it's a point of confusion.

Mr. Mike Colle: We're in the middle of a vote.

The Chair (Mr. Grant Crack): We are in the middle of a vote. Section 1 is in the bill and I've asked: Shall section 1 carry? I would ask that all members raise their hands accordingly to determine how you would like to vote, if, in fact, you choose to vote. Have we done the "in favour," Madam Clerk?

Ms. Daiene Vernile: Point of order.

The Chair (Mr. Grant Crack): Point of order: Ms. Vernile.

M^{me} France Gélinas: I've just been told that a point of order would not be taken in the middle of a vote.

The Chair (Mr. Grant Crack): That is true. I apologize. I had asked for the vote, so I'm asking for those in favour. We'll do that again for clarification because there have been a couple of interruptions here. Once I call for a vote there is no more discussion, so we'll move forward.

Ayes

Colle, Kiwala, McMahan, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Section 1 is carried.

Ms. Daiene Vernile: Point of order, Mr. Chair.

The Chair (Mr. Grant Crack): Point of order: Ms. Vernile.

Ms. Daiene Vernile: There's a fair amount of confusion as to whether we're talking about subsections or the entire section. We're not really certain on what we're voting.

The Chair (Mr. Grant Crack): During clause-by-clause consideration we have various sections. We have sections 1, 2, 3, all the way to—

Ms. Daiene Vernile: Mr. Chair, we do have the sections, but we have subsections. I didn't hear you mention the subsections.

The Chair (Mr. Grant Crack): If the subsections are in the section, they are part of the section.

Ms. Daiene Vernile: Okay. But we didn't hear you mention if we're voting on subsections.

The Chair (Mr. Grant Crack): No. We're voting on section 1 of the bill. Previously, the Clerk had mentioned Mr. McDonnell's name during the vote, but unfortunately he is not entitled to vote at this particular time. I just wanted to make that clear. So that vote, if it is recorded, is not valid. Mr. Walker.

Mr. Bill Walker: On behalf of most of us, I think we're still unclear on what we're actually voting on. If we look at page—I'm not certain there's a page number on this bill, but we're talking about "Contents of this act," number 1. Is that what we just voted on? Because we have "Contents of this act, 1, 2"—

The Chair (Mr. Grant Crack): I'm going to ask the Clerk to clarify.

The Clerk of the Committee (Ms. Sylwia Przewdzicki): Members have before them a copy of Bill 45. On the first page of the bill, inside the cover, where you have the title, below the contents, we start with number 1. So section 1 is what the Chair just put the vote on. This act consists of three sections and then three schedules. Each schedule is also composed of a number of sections.

During clause-by-clause consideration, the Chair will take the committee through the bill, clause by clause—meaning section by section—and will put the question on every section, those being sections 1, 2, 3 of the bill, and then he will deal with the schedules.

M^{me} France Gélinas: So we have now voted to accept all the way down to:

"Short title

"3. The short title of this act is the Making Healthier Choices Act, 2014." This has been carried and voted for?

The Chair (Mr. Grant Crack): Only the part in which it says section 1. Section 2 follows, and then there's section 3, which is the short title. I will deal with section 1, section 2 and section 3 first.

M^{me} France Gélinas: Okay. I know where you are.

Ms. Sophie Kiwala: Mr. Chair, can we have a five-minute recess, please?

The Chair (Mr. Grant Crack): Is it the wish of the committee to allow for a five-minute recess to allow for some clarification on all sides, I believe? Do I have consensus? Okay, five-minute recess.

The committee recessed from 1415 to 1420.

The Chair (Mr. Grant Crack): Okay, back to order. I hope everything has been clarified for everyone's benefit. We are dealing with the sections of the bill at the beginning, prior to entering into the schedules. We've already completed the vote on section 1.

I shall move to section 2 of the bill. There are no amendments. Shall section 2 carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Section 2 is carried.

We shall move to section 3. There are no amendments. Shall section 3 carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Section 3 is carried.

We shall move to the schedules of the bill, starting with schedule 1. We have an amendment from the third party on schedule 1, subsection 1(1). Ms. Gélinas.

M^{me} France Gélinas: I move that the definition of "food service" premises in subsection 1(1) of schedule 1 of the bill be amended by adding "and includes any supermarket, convenience store or theatre at which meals or portions of meals are prepared, sold" and "served for such a purpose and in such a manner".

We're starting with the definition. It will become clearer as to what they will have and won't have to do later on, but as some of the deputants who have come by—there was confusion as to whether they were included, because they didn't see themselves as a food-service premise because they have the name of a theatre. It's just to make it clear in the bill so that we can see what we will do with those, if they will be included or not included, as we move on later on in the sections of the bill.

The Chair (Mr. Grant Crack): Thank you very much. Just a reminder to all members of the committee, when you put forward a motion to amend any schedule of the bill or any aspect of the bill, stop after reading in the motion so that I can recognize that there has to be debate, for the simple reason that, on occasion, there are some pronunciation irregularities within what was read and what has been proposed in writing. I would just remind the members of that.

Secondly, I believe what you meant is "food service premise," not "premises," and also "sold or served" and not "and." Those are the types of things that I need to make sure are clarified.

Thank you for beginning the debate, Ms. Gélinas. Any further debate on the motion? Mr. Walker.

Mr. Bill Walker: I just want to remind all members of the committee that the Retail Council of Canada opposed the grocery stores because of the complexity, the volume and the potential impact, negatively, this will have on their industry.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Ms. Kiwala.

Ms. Sophie Kiwala: We feel that the amendment is unnecessary, as the current definition of “food service premise” already includes supermarkets, convenience stores and theatres. The definition in the proposed legislation as written is consistent with regulations under the Health Protection and Promotion Act.

The Chair (Mr. Grant Crack): Thank you. Ms. Vernile.

Ms. Daiene Vernile: I was just going to reiterate what MPP Kiwala said. We appreciate the nature of this suggestion, of this motion, but it would seem unnecessary and redundant.

The Chair (Mr. Grant Crack): Thank you very much. I would remind all members, before calling for the vote, please speak directly into your microphones. That will help us to assist Hansard in ensuring the accuracy of what is being said here this afternoon.

No further discussion? I shall call for the vote.

Ayes

Gélinas.

Nays

Colle, Dickson, Kiwala, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to PC amendment number 2 which amends schedule 1, subsection 1(1). Mr. Walker.

Mr. Bill Walker: So we’re adding the definition of “operates” to better reflect the structure of some food-service businesses. We certainly—

The Chair (Mr. Grant Crack): Could you just please read the motion into the record prior to discussion?

Mr. Bill Walker: Oh, sorry, Chair. Schedule 1 to the bill, subsection 1(1): I move that subsection 1(1) of schedule 1 to the bill be amended by adding the following definition:

“‘operates’ means, in relation to a regulated food service premise, a person who has responsibility for and control over activities carried on at the food premise;”

The Chair (Mr. Grant Crack): Thank you very much. Further discussion?

Mr. Bill Walker: Thank you very much, Chair. What we’re trying to differentiate here is—we had a number of our deputants come in and suggest to us that, certainly, franchisors have concerns that the definition referring to a franchisor as “one who owns or operates a food service premise” is factually incorrect and makes the franchisor liable for activities out of their control. The franchisor

does not have control over the day-to-day operations of its franchisees. Franchisees are independent business owners.

So the clarity we’re trying put in there is that it operates—so the person who is actually operating is the one who has day-to-day control, and that’s who should be responsible.

The Chair (Mr. Grant Crack): Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: We’re voting against this motion, Mr. Chair, because we recognize that there are concerns about the definitions of “owner,” “operator” and “franchisor,” which is why we’ve brought forward motion 3 to the bill. Also, we’re concerned that limiting the bill only to operators may enable owners or franchisors with responsibility for, and control over, food-service premises to avoid responsibility for complying with this bill.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to government motion number 3 which is an amendment to schedule 1, subsection 1(2). Ms. Kiwala.

Ms. Sophie Kiwala: Subsection 1(2) of schedule 1 to bill: I move that subsection 1(2) of schedule 1 to the bill be struck out and the following substituted:

“Franchisors, etc.

“(2) For the purposes of this act, a person who owns or operates a regulated food service premise means a person who has responsibility for and control over the activities carried on at a regulated food service premise, and may include a franchisor, a licensor, a person who owns or operates a regulated food service premise through a subsidiary and a manager of a regulated food service premise, but does not include an employee who works at a regulated food service premise but is not a manager.”

The Chair (Mr. Grant Crack): Discussion?

Mr. Bill Walker: Similar to my last motion, Mr. Chair, we remain concerned that removing franchisors from the bill ensures that the distinction of liability is maintained for fairness and consistency and to keep franchising as an attractive investment opportunity. Franchisors should not be legally responsible for the franchisees obligation to comply.

I believe when the Canadian Franchise Association was in they were worried, and they shared with us the implications that could arise out of this. They certainly allow the operator to utilize the franchise patent and all

of those types of things, but, at the end of the day, they cannot control day-to-day operations and the things that an individual franchisee may do in non-compliance. They're concerned very much that that responsibility is going to remain with them, so we remain opposed on that merit.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Kiwala.

Ms. Sophie Kiwala: We are voting for this motion because the intent of our bill is to allow inspectors the discretion to charge the person responsible for non-compliance whether at the corporate or single franchise-owner level. This is about fairness.

The motion clarifies that only persons who have responsibility for, and control over, the activities carried on at the foodservice premise would be responsible for compliance.

The bill is consistent with the Health Promotion and Protection Act, so on this question of compliance, public health inspectors already have long-established and rigorous experience that helps them determine who is at fault in any given situation. The precise implementation of Bill 45 will be addressed in the legislation's accompanying regulation.

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We have committed to reaching out to industry stakeholders, if and when Bill 45 passes third reading, to engage in robust discussion to ensure menu-labelling legislation is rolled out in a way that is fair.

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

M^{me} France Gélinas: I think when the association representing the franchises came, they made some valid points. I think with the rewording, we're coming closer to realizing that franchisor and franchisee each have a set of responsibilities that vary from franchise to franchise. Some of them are very scripted, and some of them not as much. I think the new language would allow us to make sure that everybody is captured if it has a responsibility towards the recipe, the portion size etc. that would lead to the number of calories. But if they don't, then they would not be held responsible either. I think it's a good amendment.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? I shall call for the vote.

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

Nays

McDonnell, Walker.

The Chair (Mr. Grant Crack): The motion is carried.

We shall move to PC motion 4, which is an amendment to schedule 1, subsection 1(2). I would remind all members of the committee that you're fully entitled to,

but at the start of each motion—for instance, the one Mr. Walker is going to be reading in. It says, "Schedule 1 to the bill, subsection 1(2)." That's already in the portion where he's going to move, so it's not really necessary that you duplicate that. I just wanted to bring that to your attention. You can; I'm not saying you can't. But to move things along quickly—that's my job, to ensure that we conduct business in an orderly fashion.

Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Chair. In the spirit of efficiency, I move that subsection 1(2) of schedule 1 to the bill be struck out.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Walker. Further discussion? Mr. Walker.

Mr. Bill Walker: We want to just make sure that we're not putting costly and time-consuming burden on business owners that may not be of benefit. It really just removes the requirement that the number of calories be displayed on each menu and all displays. I think someone came in and had a bulletin little menu board, that that's another way that we could do it.

We want to make sure that it's not inadvertently going to be impacting and creating a lot of cost to particularly those agencies and organizations, convenience stores and food stores, that have a large volume of product to put that on, and all of a sudden it changes and now they've got to go back and re-label.

I think what we want to do is make sure legislation is flexible and allow that—we certainly want that information available, but it doesn't have to be on every single menu, if you're talking about thousands of menu items in a store.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. Gélinas.

M^{me} France Gélinas: Well, just that by taking out entirely the section that deals with franchisors, you have to realize that in Ontario, most of the people who will be covered by the bill are Tim Hortons, McDonald's, Pizza Huts—if we take them out of the bill, we're taking a big chunk of who needs to follow up on the bill. So I have a little bit of an issue with that.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. Vernile.

Ms. Daiene Vernile: As an amendment to this, motion 2 was defeated. My question to you is, do we even need to vote on this?

Mr. Bill Walker: Yes, we do.

Ms. Daiene Vernile: Then we shall.

The Chair (Mr. Grant Crack): Thank you, Acting Chair. I appreciate that.

Mr. Bill Walker: Well, we wouldn't have put it in if we didn't want it voted on.

The Chair (Mr. Grant Crack): Yes. It's somewhat different. It's similar, but somewhat different as well.

Ms. Daiene Vernile: So even though motion 2 was defeated, this, that relates to it—we are still going to vote on it?

The Chair (Mr. Grant Crack): It's a completely different motion.

Ms. Daiene Vernile: Thank you.

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

Mr. Randy Hillier: I just want to add, this part of the legislation, franchisors and franchisees—they're not all Tim Hortons. The legislation is very blunt. It lumps everybody in together. There are franchises that exist that are two or three different locations.

M^{me} France Gélinas: They wouldn't be covered. You have to have 20.

Mr. Randy Hillier: I'm just saying, there's a bundle of different sorts of franchises. I think the legislation is too blunt. It will capture people that it doesn't want to capture. It will put an onus on people who don't have any responsibility.

Whenever we're looking at creating laws, and whenever we're scrutinizing and evaluating the legislation in front of us, we have to think about not just the majority of people who are going to be captured by the law, but the exceptions to that majority as well. That's why legislation ought not to be blunt. It ought to be precise and only capture those who are intended to be captured.

I think we'll see this through a number of different clauses in this piece of legislation where it is indeed very blunt and will be very onerous and harmful to many that it wasn't intended to be. I'll leave it at that.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: I just want to state for the record in response to my friend opposite that I think it's important to remember that the precise implementation of the bill will be addressed in the regs and that we've committed to reaching out to industry stakeholders, if and when the bill is passed, in order to engage in a robust discussion to ensure that menu-labelling legislation is rolled out in a way that is a fair. I just want to add that—

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

Ms. Eleanor McMahon: —to the discussion, Mr. Chair. Thank you.

The Chair (Mr. Grant Crack): Ms. Vernile and then Mr. Hillier.

Ms. Daiene Vernile: And again, this is about stressing fairness, regardless of size of the operation. So whether we're dealing with a large corporate office or a much smaller franchise/franchisee, again, our target for this is to be fair to everyone, to allow inspectors the discretion to go in and if they have to charge the person responsible for non-compliance, regardless of how big or small the operation is.

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

Mr. Randy Hillier: I'll never disagree or suggest that the intention of the law is not well intended. But I'm sure everybody around this committee has had constituents come into their office where they have faced the application of the law in an unfair way. That statement will of course be more applicable and more understood by people who have been in elected office for longer periods

of time. It should be intuitive that the longer you're around, the more you're going to hear. So it's not the intention of the law that is in question, it's how it will be applied, who it will apply to, and will fair and just outcomes actually be the certainty of it, not just the possibility or probability of it?

I would say to Ms. McMahon that leaving details of the law to the regulatory process—you used the words "robust discussion." There is no discussion at the regulatory stage. The regulations will never come before this committee for discussion. The regulations will never come before the Legislature for discussion. The regulations are done by others, and we will never have an opportunity to comment on them, refute them, argue them or give them our blessing.

So when I see legislation that comes before us where people say, "Well, it's all well intended. Just leave it up to the regulatory framework to deal with these things," that's where the rubber hits the road and that's where the problems get created, because now our perspectives are not shared with those people who are making the regulations. Those regulations are being crafted up by ministry administrators, by ministry officials, with an absence of political or constituent perspectives into the equation.

1440

It's a dangerous path when we create legislation that gives broad authorities to the administration of government, but we don't know what or how they're going to actually be created through the regulations. All that will happen, for those who are interested, we'll get a copy of the gazette on the day that those regulations are gazetted, and they'll be law.

A good example of that is the G20 regulation that caused so much trouble. The G20 regulation, describing the boundaries of where the police enforcement and authorities would be during that G20 summit never came before this committee, never came before any committee, never came before any legislative body whatsoever. It was a total muck-up. I would encourage everyone here to actually read that G20 regulation, because there's no way anybody would be able to make heads or tails out of the bureaucratic language that was created with the G20 regulation. At the end of the day, long after it was passed, that G20 regulation was removed with a new bill that was introduced, Bill 34, at the time.

So if we want to have robust discussion and ensure that the law that we're creating is precise, functional and practical, then we never want to leave it up to the regulators to make the final determination. Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier.

Ms. Vernile?

Ms. Daiene Vernile: With all due respect, I think it is a bit peculiar to be comparing policing with healthy eating.

We've listened to Ontarians who have told us loud and clear that they would like to have information on the calorie count in the foods that they are buying. You talked about a dangerous path. The fact that half of

Ontarians right now are battling with obesity, that's a dangerous path to having ill health. So all we are stating is that we want Ontarians to have access to the number of calories that are in the foods that they are purchasing. They want this information, we see it other in jurisdictions, and we are happy to provide that for them.

The Chair (Mr. Grant Crack): Thank you.

Mr. Walker had his hand up first. Mr. Walker?

Mr. Bill Walker: I just want to clarify: I want the record to show that we're not opposed to that whatsoever. All we're saying is that there are different ways to do it. Sometimes—to Mr. Hillier's point—we can inadvertently cause a lot of duress to a business or businesses by making it too stringent. I think we just want to make sure that we're considerate of that and that we're not putting something else in. If there's an easier way to be able to advertise and promote that calorie count that is amenable to and going to work for the individual, the consumer, but also be fair and non-restrictive to the actual operator, then I think we need to look at that. That was the intent of the motion.

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

Mr. Hillier and then Mr. McDonell.

Mr. Randy Hillier: Just for clarification, I wasn't equating counting calories or making healthier choices with police actions. What I was drawing a parallel between is the creation and application of the law. Whether it's a policeman who enforces the law or whether it's a health inspector, or whatever, the law and how it is created is what I was drawing the distinction to. If we only allow administrators to craft up the actual laws—the regulations—then we end up missing out on that political and constituent perspective and how it's going to be impacting on people. I wanted to draw that distinction.

Counting calories is not the same as a G20 summit. It's not the same as people dressed up in black, smashing windows. But if we're going to say that how we created the law for the G20 summit is a fine way of creating a law, and we're going to do it for this as well, then don't be surprised if we have some problems down the road that you'll face in your constituency office, when you get a small business owner or somebody else who has been captured in an unintended way.

I just put that out there: Be very judicious about removing our responsibilities and delegating them to some other body that is beyond our reach, beyond even our knowledge of who they are. We are the people who have been elected to create the law, not the administrators in any particular ministry. I'll leave it at that.

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

Mr. McDonell, did you have any comments? Yes? Okay, Mr. McDonell.

Mr. Jim McDonell: I was here during the G20 debate, and certainly those were regulations. But it still belongs to the enforcement, whether it be a policeman, whether it be food inspectors, or whether it be the TSSA, which I hear in my riding go in and, very much not

through legislation but through regulation, cause a lot of issues and a lot of disruption to our small manufacturers.

We very much have a lot of concern. I know it's easy to scoff it off as not police officers, but it still is an enforcement arm of this government. We've seen—I guess I've heard of many abuses in the past, and of course we're concerned about that.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to PC motion 5, which is an amendment to schedule 1, new subsection 1(3). Mr. Walker?

Mr. Bill Walker: I move that section 1 of schedule 1 to the bill be amended by adding the following subsection:

“Grocery stores and supermarkets

“(3) For the purposes of this act, a regulated food service premise does not include a food service premise that is operated within a grocery store or supermarket.”

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

M^{me} France Gélinas: I would say that the provision of the bill that talks to how many—you have to have 20 different premises operating in Ontario. You have to be of a certain size.

Given that more and more people don't cook at home anymore, they go to the grocery store. The grocery stores have entire departments dedicated to food that is ready to eat, to be consumed. They have to be included. This is the way of the future.

Is the way that the menu labelling is going to be done—absolutely, take their input into account as to: Is it going to be with the little flag when it says that 100 grams is worth so much money and so many calories? There will be different ways of doing that. But they have to be included because so many Ontario families don't cook at home anymore. This is the food that they eat. If they were to cook, they would have all of this nutritional information, but they don't. Let's move on with the times.

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

Mr. Bill Walker: Just again, this amendment exempts grocery stores from any labelling requirements. The idea being, again, a lot of these grocery stores, particularly in our small rural areas, may have two or three or four different suppliers of various products, and to get the identical is the real challenge.

Again, to my colleague who just referenced some examples of what's in the regulation, and some overzealous inspectors could go in looking for this. It's not the intent. We certainly support the spirit, but to say it has to be identical in every grocery store within that chain—again, it's a difference between the franchisor and the franchisee and how to get that identical. It's just one of those things that I think we could amend and ensure that someone's not going to inadvertently be caught in this.

The Chair (Mr. Grant Crack): Thank you. Ms. Vernile?

Ms. Daiene Vernile: Mr. Chair, I would like to add my support and my voice to what MPP Gélinas has said. Where I grocery shop in Kitchener Centre, a grocery store called the Highland Hills Plaza—in the grocery store there's a sushi stand. But I know the lady who's behind the counter there doesn't work for the grocery store. She's just renting space. She is preparing the sushi for customers. I've bought there many times and it's delicious, but I sure would like to know what the calorie count is there. She needs to be able to provide that information.

1450

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell.

Mr. Jim McDonell: I think this bill captures and realizes in a very big way that you have to have a number of stores or distributors before it makes sense. I go to my local independent store. There are some in Cornwall, Morrisburg and Ingleside. They all have some staff, a chef who makes up some—I'm talking about some of the shepherd's pies or—in a way, it's up to the cook who is there. These are not identical items. These are not packaged and on the shelf. If this was a local hot dog stand, it's exempted because there aren't 20. This is something similar.

In the store you're talking about, yes, there's one person who is selling something that's not part of the chain, and yet we're going to make them fall under the same rules as if these things were made centrally and shipped out. But they aren't. I'm sure that in many areas in this country there are many different tastes and things are done differently in different areas based on what's liked and what's not liked. I think that's just good business. Now you're taking the ability to do that out of the hands of the local chef or cook, in this case, because they've all got to be the same. I don't think that would be the intent of this; at least, I hope it wouldn't. If they're different, they're different.

The Chair (Mr. Grant Crack): Ms. Vernile.

Ms. Daiene Vernile: We're just trying to ensure that Ontarians have the information that they're asking for. They want to know what the calorie count is. Once you figure that out, you have that information and you move forward from there. You don't have to keep doing it day by day or week by week. Again, this is about empowering consumers so that they can make healthy choices.

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

Mr. Jim McDonell: I'll just say that in the village of Lancaster, there are about 10 different restaurants. There's a McDonald's and there's a Burger King and there's a Denny's. That's what I would think this captures. There are another seven stores that are all independent operators that make food based on what they're trying to sell to the public. There are certainly one or two stores. I think there's one of them that's a small local franchise of five or six stores, but the food is not consistent. You exclude those.

So I'm not sure why, when you have maybe a big grocery store and you have somebody individually making food there, that all of a sudden they have to obey the rules as if they were a major operator. They aren't. These things are made for the local market that's there. They're not necessarily the same. If I go to the store down at the old Maple Leaf Gardens, it's vastly different than the same chain in Cornwall or Ingleside, which may or may not have food like that. These stores are small. They're franchises, sure, but the local food that's prepared there is very different.

I think the intention is to capture where things are done repetitively and they're easy to do, because you do it once and you split the cost over many different sites. In this case here, you're doing it once. Who do they get to do this analysis of the food? It's not the same as Tim Hortons coming in, because they're all identical; that's how they make their living. These stores allow for some individuality that allows people to enjoy the food, possibly a little bit more, and it's different.

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

M^{me} France Gélinas: This is one of the cases where, had we had more time—I tried to work on something like this, but the way you have it now it excludes from the definition any foodservice premises operating within a supermarket or a grocery store. So if you have a McDonald's within the supermarket, if you have a Pizza Hut within a grocery store, it would be excluded.

Had we had more time to work on our amendment, it would have been good to capture what you're trying to do, but we didn't. I certainly tried. I couldn't make it, so I sort of gave up. I think there's hope in the regulations with the number of premises. As well, if it's a menu item that is not regularly on the menu, it's not captured by the bill. So I'm hoping that the grocery stores will be able to do it.

On the flip side of it, a lot of grocery stores that have—I forget what they're called, but it's food ready to eat. If you ask them, they already have the nutritional content of their food. It's just that it's not displayed. You have to ask them and then they look under the counter, they pull out this little brochure and it tells you exactly. So they have this information. They have sort of standard recipes, plus or minus.

I know what you're trying to do for the smaller ones. I'm hoping it's going to be respected, the spirit of what we're trying to do, but the way you have it now—that all you have to do is be located within a grocery store to be excluded—I could not support that.

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

Mr. Bill Walker: I certainly thank my colleague for that. The spirit here is really the word “identical.” Again, there could be some challenge to the supply chain and they send a different blueberry muffin; they’re not going to be identical. Inadvertently, that franchisee is going to be in non-compliance. That’s the concern we have. By whitewashing with the word “identical,” it has to be identical. It can’t be slightly different, because now they’re in non-compliance.

All we’re saying is, it could be one of those unintended consequences. I certainly hope that the spirit of the regulation will be maintained when they do that, but we’ve had other examples cited that when the regulation comes in, it doesn’t take into provision those types of concerns.

I agree with you: Had we had more time to consult with our stakeholders—not changing the rules, but allowing, actually, the democratic process to fully unfold and engage—we might have been able to come with wording that could appease all users and, at the end of the day, have legislation that’s going to be precise and not inadvertently penalize those for something out of their control.

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

Mr. Randy Hillier: I think the member from the NDP’s comment was very telling, and also something that we should take to heart if we’re hoping that the law will be done well. That’s a powerful statement. Here we are crafting up the law—and I do agree: if there had been more time afforded for thoughtful deliberations and evaluation. We had many people who wanted to make presentations to this committee on this bill who weren’t afforded time to do so. We’re rushing the law. We’re rushing public policy. If there is anything that we never want to rush, it’s developing public policy and the law. These things actually impact people with the full authority of the state. Really, just think of it: We’re going to hope that the law is done well?

One of my colleagues said that hopefully the spirit of the regulations will be involved with the application of the law. I’m going to tell you, when the law is prescribed, inspectors must enforce it. That’s their job: They must enforce. We can’t ask our members of the public service to enforce some laws but don’t enforce all of the laws, or “Enforce that law fully, but turn your back to those ones.” That’s not the way the rule of law works. The rule of law is applicable to everyone in an equitable fashion, not different for different people.

I would just again raise caution to the members on the opposite side. This bill is being put forth too fast, in my humble opinion, we’re leaving too many unknowns on the table, and we’re relying on hope too much in the regulations.

I’ll just put this comment out and I would ask the Liberal members of this committee: If you ever take a look on Google one time about South Central LA and

fast foods, there’s a wonderful story there about how they hoped they law would deal with things. About 10 years ago in South Central LA, they banned all new fast-food restaurants because of the obesity problem there. The studies that have been done now, 10 years later, have found that the obesity levels in South Central LA are far greater than they are in any other part of LA. The intention was noble: They wanted to reduce obesity. But how they crafted the law ended up directly opposing their intention. Now the obesity rates in South Central LA are of an even greater magnitude higher than the rest of LA.

1500

So let’s be thoughtful. Let’s not rush things. Let’s make sure that the law is precise and that we’re not just going to hope that some inspector will apply the law the way that Mr. Walker thinks it should be applied or the way that Ms. Vernile would like to have it applied, but applied the way the law says, and that it is precise and equitable for everyone.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Any further discussion? There being none, I shall call the question on PC motion number 5.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

I shall move to the actual schedule and section of the bill. There is one amendment to it so I shall call the vote. Shall schedule 1, section 1, as amended, carry?

Mr. Bill Walker: Chair, can I ask for a point of clarification?

The Chair (Mr. Grant Crack): A point of clarification, Mr. Walker.

Mr. Bill Walker: Don’t I have number 6 that is still within schedule 1?

The Chair (Mr. Grant Crack): That’s on section 2.

Mr. Bill Walker: Oh, sorry. My apologies, Chair. Thank you.

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

Those in favour of an amended schedule 1, section 1? Shall it carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): None opposed. Schedule 1, section 1, as amended, is carried.

We shall move to schedule 1, section 2, at this point. We have a PC motion for schedule 1, subsection 2(1). Mr. Walker.

Mr. Bill Walker: I move that subsection 2(1) of schedule 1 to the bill be amended by striking out “who owns or operates” and substituting “who operates” in the portion before paragraph 1.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Mr. Walker.

Mr. Bill Walker: The amendment replaces this, Mr. Chair, and again, it’s back to when the Canadian Franchise Association was in. What they tried to stress to us, I believe, as a committee, was that they, as franchisors, should not be held liable for the day-to-day operations and compliance of franchisees. I think the distinction was that as a franchisee, you are licensed to have and utilize all of the wherewithal of that corporation, but they do not actually own it. If I use an example, I believe in many cases a Tim Hortons, the actual store and the grounds are actually owned by the corporation, but the franchisee owns the ability to operate the business within that franchise.

So I think the overarching concern here again is: Who really, at the end of day, is going to be in non-compliance? Who has the ability to be in compliance? It really lies with the franchisee and not the franchisor.

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

M^{me} France Gélinas: There are some examples where it would apply, but to take Tim Hortons is a very bad one, because at Tim Hortons the food comes, the doughnuts are already cut to size, and how long to put them in the oven or in the deep fryer is set. Tim Hortons actually has the nutritional information of all of their food items identical for all of their franchisors and owners, because they set the recipes, the food, the cooking instructions etc. It is set.

Other franchises give the owner and operator more flexibility into how they do their food. But given that it varies, to me the bill is written in a way that the responsibility will lay with the person who has the authority. If you are the one who decides on the recipes and the portion size and you don’t follow the law, then you will be the one that the law will go after. I find with the amendment that we’ve made, it will capture this already.

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

Mr. Bill Walker: Just to the last part of what Ms. Gélinas said, I think it actually reinforces what I’m trying to say. If someone chooses not to do that, they are the operator. They’re the person that, at the end of the day, before they hand it across the counter, should be held responsible. Not head office, who might have said, “You need to share this. You need to serve this to your customer.” They have made a choice. So why are they going to be penalized inadvertently for someone who they have no control over?

There are lots of franchisees and franchises, I believe, that operate in this way. They give some level of magnitude to the actual individual operator, who again is not necessarily the owner. They’re licensed to utilize the wherewithal of that corporation, but they have some latitude.

That was their big concern. They were really saying to us, “We’re going to be held liable even though we had nothing to do with it. We couldn’t prevent it; we couldn’t permit it.” At the end of the day, that’s why I think some of these things are too ambiguous right now, and there’s going to be a lot of inadvertent application and a lot of inadvertent negative impact to people like the franchisors. It’s going to become less favourable to be able to do some of these franchises, because who really is liable here?

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Mr. Hillier.

Mr. Randy Hillier: Part of the presentation from the Canadian Franchise Association, who spoke directly to this—I’m going to, again, see if we can take away the Tim Hortons or McDonald’s out of our minds and just think of the great multitude of different franchises there are.

One of the things that they mentioned was how this may also impact existing franchise agreements, in that it will be contrary to existing franchise agreements. What I see happening here—how this would play out in practice—is that those franchises that give or permit latitude and flexibility in menu items, that aren’t completely regimented from head office, this bill is going to make it an economic necessity that they change those franchise agreements and take away that latitude, because the franchisor will now be responsible for the menu items. They’re going to be economically incented to demand complete standardization and consistency of all menu items within their franchise network.

I don’t think that’s what we want to achieve, to take away choices and take away some individual and unique menu items. But that’s what, I would suggest, is going to be the consequence. Those franchise agreements will be rewritten, because they’ll just have to. Individual franchisees will lose their opportunity to have unique menu items, because the franchisor is going to be responsible if something is not done correctly.

We saw something similar to that with the city of Toronto’s experiment with food carts a little while ago, where the city of Toronto was going to make it that so many food carts had to have Mexican food and so many had to have hot dogs and so many—and they tried that for a couple of years, this very centralized and bureaucratic approach to the street vendors of food. Of course, at the end of the day, they threw up their hands and said that it was all for naught and it didn’t work and let the marketplace work.

I see that that will be a certainty, that unique menu items and unique ways of doing things within a franchise umbrella will be taken away and everybody will have to have a Big Mac wherever you go. There will be no Harvey’s burgers where you get to choose how many tomatoes you want on it or how many pickles you want on it because the franchisor is going to be held responsible. I hope that isn’t the case, but reading the way the legislation is and talking with the CFA and others and just seeing how the law will be applied, I don’t think

there's any doubt in my mind that consistency and standardization will be the only thing on the menu in Ontario after Bill 45.

1510

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Any further discussion? There being none, I shall call the question. Mr. Walker has moved PC motion number 6.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 7. Madame Gélinas, would you prefer 7.1 or 7?

M^{me} France Gélinas: I wish to withdraw number 7.

The Chair (Mr. Grant Crack): Okay.

M^{me} France Gélinas: Remember I told you I had a really tough time meeting the deadline for the amendments—

The Chair (Mr. Grant Crack): Yes. Okay.

M^{me} France Gélinas: —and move on to 7.1.

The Chair (Mr. Grant Crack): Okay. So this is an amendment to schedule 1, subsection 2(1). Ms. Gélinas.

M^{me} France Gélinas: I move that subsection 2(1) of schedule 1 to the bill be amended by adding the following paragraph:

“1.1 The amount of sodium in every standard food item that is sold or offered for sale at the regulated food premise.”

So what the bill has—

The Chair (Mr. Grant Crack): Sorry. At the “regulated food service premise”?

M^{me} France Gélinas: Premise.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. Gélinas.

M^{me} France Gélinas: I'll learn to read pretty soon.

The spirit of the law is really to give people more information when they make their food purchases by giving them the number of calories—long overdue and it will be a step in the right direction.

A bill is not an incremental type of process. You do it and then you put it aside for the next 20 years. Now is the time to put in sodium. We have heard deputations come forward to show the difference it would make, that people want this information. In some polling, people want the sodium information even more than they want the calorie information, although both of them polled really, really high; 80%, 85% and 90% of us want to know this when we eat out.

Now is the time to do this. We all know that sodium has a direct impact on a number of serious chronic diseases and we have an opportunity to do this. As all of

the people involved—the restaurant premises involved will have to change their menus and their menu boards to accommodate the new information. Let them go through this process once by adding calories and sodium at the same time.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Ms. Vernile.

Ms. Daiene Vernile: Just a quick comment, and that is to say that the recommendations that were handed to us from the province's expert Healthy Kids Panel said that having too much information and too many regulations at this time—this information on a menu might be counter-productive. But I would agree with you that knowing the sodium content in food is valued and I don't doubt in the future that we will address that.

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

Mr. Bill Walker: Thank you very much, Mr. Chair. A couple of points: One again is very similar and consistent with the last couple that I've raised. The franchisee association and the Retail Council of Canada have both spoken to concerns about those and who's really responsible and liable at the end of the day. Is it the franchisee or the franchisor? I think that was one that, had we had more time, had we had more ability—I certainly found it compelling, in some of the deputations, in giving us information on the sodium, that there was merit in it. I think the challenge becomes logistical and the inadvertent consequences that may happen if we don't do this in a thorough manner and make sure we're understanding exactly what we're doing.

The amendment makes some sense, but at the end of the day, I'm not certain even there, when you talk about how much and how different diets—how big people are, the metabolisms, those types of things. So generally, and still in the spirit of labelling, I think there's good movement there. I think we're generally supportive, but in this case, I think we needed more time to ensure that it would be there and do it so that it's beneficial to the people as opposed to just a stat on a piece of paper.

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Any further discussion? There being none, Madame Gélinas has moved NDP motion 7.1.

Ayes

Gélinas.

Nays

Colle, Dickson, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 8, which is an amendment to schedule 1, section 2. It's a new subsection: (1.1). Madame Gélinas.

M^{me} France G elinas: I move that section 2 of schedule 1 of the bill be amended by adding the following subsection—again, it has to do with sodium:

“(1.1) On and after January 1, 2017, every person who owns or operates a regulated food service premise shall ensure that information about the amount of sodium contained in every standard food item sold or offered for sale at the regulated food service premise is displayed in accordance with the requirements” in “this section.”

The Chair (Mr. Grant Crack): “Of this section.”

M^{me} France G elinas: Of this section.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Madame G elinas.

M^{me} France G elinas: Basically, very similar to what I tried to do in the last amendment that was defeated, but this one gives it a longer window—a two-year window—to get the job done. If we put it in the bill that you have to look at it within the next two years, the chances of it happening increase.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the question.

Ayes

G elinas.

Nays

Colle, Dickson, Kiwala, McMahan, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

Next on the agenda we have NDP motion number 9, which I shall determine is out of order because it—sorry, Madame G elinas, read it into the record, please.

M^{me} France G elinas: I was going to withdraw.

The Chair (Mr. Grant Crack): Thank you very much. So number 9 is withdrawn.

We shall move to PC motion number 10. Mr. Walker.

Mr. Bill Walker: I move that section 2 of schedule 1 to the bill be amended by adding the following subsection:

“Exception

“(2.1) Despite subsection (2), if a standard food item that is a drink is put on display at the regulated food service premise, the information required to be displayed for the purposes of subsection (1) need only be displayed on a label or tag identifying the standard food item.”

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. Walker.

Mr. Bill Walker: This would exempt beverages on display with calorie information on the front label from also posting calorie information on the display. Beverage companies already displaying the calorie information achieve the intention of the bill; additional displays would be redundant and burdensome and would add, again, more costs.

I think what we’re asking for is flexibility. If it’s displayed, if it’s there and people can understand—again, the spirit, I believe, of this whole portion of the bill is to allow people to understand and make healthier choices, but you don’t need it here in big flashing letters and also on every single individual item. It’s very costly. If it changes, you’ve got to change all that labelling as opposed to just a menu board that the public has access to and can see.

So I think this would make, certainly, a valid positive amendment to this bill. It would still honour the intent, that people are informed, but it wouldn’t put extra and undue burden, regulation and duplication on the actual individual company.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the—Mr. Hillier?

Mr. Randy Hillier: You have to be a little bit more thoughtful there. Look around.

The Chair (Mr. Grant Crack): I’m acknowledging Mr. Hillier.

Mr. Randy Hillier: I find the amendment is a reasonable amendment. If a product is already identified and labelled, and they are—if somebody wants to pick up a bottle of Coke, it’s on the bottle of Coke, how many calories are in it, and now we’re going to suggest that they also must have, under this bill, calorie displays beside the bottle of Coke? I don’t know about anybody else on this committee, but I can’t imagine that having any effect whatsoever.

Whether it’s a bottle of Fresca or a bottle of Coke or what have you—or a carton of milk. When I go buy a carton of milk downstairs at lunch, am I going to be dissuaded from my carton of milk or change my drinking preferences because there is a sign up there that also has the same information that is already on the carton of milk?

1520

I think the law needs to be reasonable in its application. Making things redundant and adding further cost without further benefit is pointless. I don’t know why the government would want to be adding cost where there is no benefit in return—adding cost to consumers, adding cost to businesses, with no benefit in return to anyone. I really would be interested to hear why. The member in the last clause said that there can be a situation where there’s too much information—that too much information is harmful when speaking about sodium. But apparently, we cannot have too much of the same information when it comes to beverages.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Hillier. Madame G elinas?

M^{me} France G elinas: I would be more willing to accept this amendment if you could convince my husband to carry his reading glasses. Given that he never carries his reading glasses—and that with some of the labelling on the drinking container, he needs his reading glasses to be able to read it—then it’s better to leave it in the bill, because in the bill it talks about the size of the

font, it has to be the same font as the price etc. So, therefore, even my husband will be able to see how many calories there are in a bottle of whatever that has the number of calories in font that is 0.09. So I'll be voting against this.

The Chair (Mr. Grant Crack): Thank you very much. Madame Vernile?

Ms. Daiene Vernile: Merci, Monsieur Chair. The point of this is intended toward restaurants where—and there's one I like in Kitchener where they do this—if you want a soda drink, they hand you a glass and then you go over to the fountain machine and there are all these tabs, and you press and you get your pop. That's where we need to post. However, in terms of individual labelling, if you're in a restaurant where they hand you a can or a bottled drink, my understanding is that Bill 45—you'll be exempt; we're already doing that. But all of this can be addressed with regulations.

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

Mr. Bill Walker: Just a point of clarification to your comment that it's addressed to restaurants: There's a lot of other people who are going to be impacted by this. What we're trying to protect is to just make sure that some of those—we're thinking of this group, but what about the unintended consequences for many other groups that might be impacted by this? I think that's what my colleague MPP Hillier was saying before, that we have to look at all users, all people that are going to be impacted by this legislation. That's what we're trying to ensure that we're doing, before we get there and then have to back the bus up and make a whole bunch of changes, which are, again, a duplication, redundant and an extra cost to the consumer and to the operator.

The Chair (Mr. Grant Crack): Mr. Hillier?

Mr. Randy Hillier: I think you just made our argument for us. What this amendment says: If the product already has a label attached on it, then there's no requirement to put a further label. You're suggesting what it's intended for is in a restaurant or one of those places where you have a self-serve cup or where it is not labelled. So we're in full agreement there. If there isn't a label, then you have a label; but if it's already labelled, why have another label?

Ms. Daiene Vernile: No, there won't. There won't.

Mr. Randy Hillier: Well, this amendment would ensure that the regulation meets your expectation, because the clause—the amendment—says that if the product already has a label on it identifying the calories, then it gives you an exemption for further. Without this amendment, we're going to hope that the regulators get it right, we're going to hope. I don't know, after being in the petitions committee last week, when we had a Liberal member from Scarborough say that the worst thing a government can do is give people hope—I don't want to leave things up to hope.

That is our job as lawmakers, to make sure that we get it right. If you're in agreement with this, then let's agree to it. If you think that there's value in double labelling things, then vote against it.

Ms. Daiene Vernile: There's no double labelling—

Mr. Randy Hillier: Well, this clears it up: If it's on display at a regulated food service premise, the information required to be displayed for the purposes of subsection (1) need only be displayed on the label or tag identifying the standard food item. So you don't need to put it up again.

I think that's a reasonable regulation. From the sounds of it, it's what you're looking for this bill to achieve. We're just putting it in law, and not just hoping that the regulators or the administrators who are developing the regulations will capture what you are suggesting you want this bill to achieve.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Any further discussion? There being none, I shall call the question.

Ayes

McDonnell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): PC motion number 10 is defeated.

We shall move to NDP motion 11 or 11.1. Madame Gélinas.

M^{me} France Gélinas: NDP motion number 11, I wish to withdraw. I've had some legislative counsel issues due to tight scheduling. You may have noticed by now. Can I move 11.1?

The Chair (Mr. Grant Crack): Yes, please.

M^{me} France Gélinas: I move that subsection 2—

Mr. Mike Colle: So, wait a minute now, 11 is withdrawn?

The Chair (Mr. Grant Crack): Eleven is withdrawn. Excuse me, Madame Gélinas. Just for clarification, 11 is withdrawn. She's dealing with NDP motion number 11.1. Go ahead, Ms. Gélinas. Sorry.

M^{me} France Gélinas: I move that subsection 2(4) of schedule 1 to the bill be amended by striking out "The requirement under subsection (1) applies" at the beginning and substituting "The requirements under subsections (1) and (1.1) apply".

The Chair (Mr. Grant Crack): Now, Madame Gélinas—

M^{me} France Gélinas: I'm out of order?

The Chair (Mr. Grant Crack): I'm going to rule that that particular motion is out of order as a result of it being dependent on your motion number 8 passing, which was defeated. So this motion is out of order.

We shall move to NDP motion number 12, which is an amendment to schedule 1, section 2. It's a new subsection, 2(4.1)

M^{me} France Gélinas: I move that section 2 of schedule 1 to the bill be amended by adding the following subsection:

“Averaging number of calories

“(4.1) Despite subsection (4), if the number of calories in two or more varieties, flavours or sizes of a standard food item sold or offered for sale at a regulated food service premise differs by 10 per cent or less, the person who owns or operates the premise may display the average number of calories for all of the varieties, flavours or sizes of the standard food item in one place on the menu.”

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Madame Gélinas.

M^{me} France Gélinas: That was presented by a number of people in the restaurant business who basically say that on some of their menus, they group, say, a number of zero-calorie pop. They put them all on the same line. They’re all the same size, they all cost the same, and they will all contain the same amount of calories. We’re putting it in the bill that, if the calories stay within 10% of one another, they can certainly regroup and post the calories only once. It will make it clearer on the menu. This is the way that it has been implemented in most of the big fast-food chains in the States. Most of those fast-food chains also operate in Canada, so it would basically take the new menu boards that they have developed in the States and bring them here, where they’re allowed to regroup food items that are within 10% of one another in calories.

1530

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

Mr. Bill Walker: It seems pretty reasonable. Again, it reduces the administrative burden and the extra costs. There’s less confusion, to be absolutely honest, at the end of the day. So I will be supporting this; I think it’s very reasonable. I hope the government will agree.

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

Mr. Jim McDonell: I can’t help but think, when I go into the local Dairy Queen store and they have an ice cream or a sundae and there are 25 different flavours, how complicated the menu system would have to be. And then you get down to the next one, which would be a Blizzard, and it has another 25 flavours. It seems only reasonable, if you want people to actually be able to read these things, that you make it simple enough.

I would question whether even 10% is enough, because you’re looking at varying parts of it, which may vary significantly in calories. But the amount that’s in them, overall, is not that great, whether it be blueberry or strawberry or raspberry. It just makes it very difficult. It probably will just busy people out.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote. Madame Gélinas has moved NDP motion number 12.

Ayes

Gélinas, McDonell, Walker.

Nays

Colle, Dickson, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

We have NDP motion number 13. Madame Gélinas.

M^{me} France Gélinas: I think that there are some mistakes in it. I think that this was to group together the averaging with the amount of sodium. Given that all of the amounts of sodium were—I will withdraw.

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

Mr. Mike Colle: So 13 is withdrawn? Is it 13?

The Chair (Mr. Grant Crack): Yes, NDP motion 13 is withdrawn.

We shall move to PC motion number 14, which is an amendment to schedule 1, subsection 2(6). Mr. Walker.

Mr. Bill Walker: I move that subsection 2(6) of schedule 1 to the bill be amended by striking out “who owns or operates” and substituting “who operates”. Again—

The Chair (Mr. Grant Crack): Thank you very much. Further discussion?

Mr. Bill Walker: Thank you very much, Chair. My apologies for jumping in; I’m just a keener to get going.

The Chair (Mr. Grant Crack): Yes, you are.

Mr. Bill Walker: I always want to roll.

The Chair (Mr. Grant Crack): It’s good to see.

Mr. Bill Walker: Again, it’s very consistent with what we’ve said before, certainly on behalf of the Canadian Franchise Association. This is the discrepancy between who the owner actually is, who’s responsible and who operates. At the end of the day, we believe it should lie with the person who is actually closest to handing the product or service over the counter to the actual consumer, to the citizens. We believe that this can and, in fact, will help the bill and the clarity and not getting into this battle behind the scenes of who is at stake. Really, the intent here is to make sure that the consumer knows, and we want to do whatever we can with the legislation to make that as simple and precise as possible.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? There being none, I shall call the vote on PC motion number 14.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is lost. I caution all members to ensure that they don’t scratch their head when there’s a vote going on. Thank you very much.

We have schedule 1, section 2, completed as far as amendments go. I don't believe there were any that were passed. So shall schedule 1, section 2, carry?

Mr. Jim McDonell: I just have a question.

The Chair (Mr. Grant Crack): A clarification question: Mr. McDonell.

Mr. Jim McDonell: I know we're voting on this whole section, but I just can't help—has anybody put any thought into how some of this is practical? I'm just thinking of the example of Dairy Queen, again, but there are many like that. How can this even work—

Mr. Mike Colle: It's out of order.

The Chair (Mr. Grant Crack): Thank you very much, Mr. McDonell. That's all been discussed, Mr. McDonell, throughout the discussions. I have called for the vote—

Ms. Daiene Vernile: Point of order, Mr. Chair.

The Chair (Mr. Grant Crack): I've called for the vote, so we've done that.

Ms. Daiene Vernile: We don't understand if it's with amendments or without amendments.

The Chair (Mr. Grant Crack): There were no amendments that passed, as I explained previously. So shall schedule 1, section 2, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

Nays

McDonell, Walker.

The Chair (Mr. Grant Crack): Schedule 1, section 2, is carried.

We shall move to schedule 1, section 3. How is everybody doing? Everybody is doing fine, yes? Okay, good. Schedule 1, section 3: We have PC motion number 15. Mr. Walker?

Mr. Bill Walker: I move that clause 3(2)(b) of schedule 1 to the bill be amended by striking out "that owns, operates, franchises or licenses" and substituting "that operates or licenses".

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Walker.

Mr. Bill Walker: Thank you very much Mr. Chair. So, again, very consistent with what I've been saying all the way through here, there are concerns in regard to the franchisor versus the franchisee and who is most responsible at the end of the day for the day-to-day operations and thus the compliance with this regulation and legislation.

We are trying to make the case that at the end of the day, it isn't necessarily the franchisor; it's actually the franchisee who has a licensed ability to provide that service or good, not necessarily the ownership of that. That's the point of clarification I've been trying to make all day. I'm hopeful that at one of these, the government will understand that I'm trying to work with them. I'm

trying to co-operate. We're trying to ensure that there are no inadvertent negative consequences and that they will see their way forward to distinguish and differentiate between a franchisor and a franchisee, and that the reality of who really is in non-compliance is the operator.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Walker. Mr. McDonell?

Mr. Jim McDonell: I'm just kind of wondering how you intend to enforce some of these. Everybody thinks of the big franchises, McDonald's and Tim Hortons, where their whole brand is based on exactly what's sold. But a lot of these franchisees are part of a smaller chain. Really, it's more of a—they do it more for ordering equipment, ordering supplies and making sure that the franchisor is responsible for everything that happens.

Legally, have they looked at how this happens? It's something similar to what I was talking about before on the labelling. You can make a lot of laws, but do they make sense? There's no question that there's no shortage of people who go out and enforce something and it's not to the letter of the law. We see that every day. It doesn't always make sense. Sometimes it makes people do crazy things. I don't think that's the point of it. The idea is to get things so they're reasonable and they make sense.

I have to agree with Mr. Walker here, who talks about how you have an owner of the franchise. He's there; he operates it; he has to be responsible. Making somebody that may be in a different country—I just don't know what you can do about that.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? I shall call the vote on PC motion number 15.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): PC motion number 15 is defeated.

We shall move to schedule 1, section 3, in its entirety. Before I call for the vote, is there further discussion on schedule 1, section 3? There being none, shall schedule 1, section 3, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

Nays

McDonell, Walker.

The Chair (Mr. Grant Crack): Schedule 1, section 3, is carried.

We shall move to schedule 1, section 4. We have PC motion number 16. Mr. Walker?

Mr. Bill Walker: I move that subsection 4(2) of schedule 1 to the bill be amended by striking out “that owns or operates” and substituting “that operates”.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Walker.

Mr. Bill Walker: Consistent again with my attempt to try to find a way through this, Mr. Chair, so that we can actually put things in place that are going to represent all needs of this legislation and accompanying regulation—once it’s in place, of course, because we’re doing it without seeing the regulation. We just don’t want to inadvertently place a burden on the franchisor, who at the end of the day does not necessarily have the ability to remain in compliance of a franchisee, who only owns the licence to operate that product or service establishment, at the whim of the corporation.

We want to ensure that, at the end of the day, we’re addressing this. We would respectfully ask that the government consider this amendment, one of many, to ensure that there’s differentiation between those two. They are very distinct, and there are very distinct realities of what that will imply at the end of the day. We don’t want to put people in a case of being in non-compliance when they really have no ability to actually impose or provide the ability to be in compliance with that legislation.

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The Chair (Mr. Grant Crack): Further discussion? There being none, Mr. Walker has moved PC motion number 16.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to the carrying of schedule 1, section 4. Any discussion? Shall schedule 1, section 4, carry?

Ayes

Colle, Dickson, Kiwala, McMahon, Vernile.

Nays

McDonell, Walker.

The Chair (Mr. Grant Crack): Schedule 1, section 4, is carried.

We shall move to schedule 1, section 5. We have NDP motion number 17. Madame Gélinas?

M^{me} France Gélinas: I move that section 5 of schedule 1 to the bill be amended by adding “under this act” at the end.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Basically, when the Chief Medical Officer of Health for Toronto Public Health came, he made it clear that a lot of health promotion initiatives were started at the public health levels, were started at the community levels, were started at the municipal levels. Then, as one and two and three moved, finally the province came in. They didn’t think it was wise to take away the power of the medical officer of health, the municipality and the communities, to go further than what was in the bill. It could be possible, and to take that away would be a step backward in health promotion, because so many steps that we have made forward in health promotion in this province—especially if you think about tobacco—were made at the community level, before they became province-wide. This is what this amendment is trying to do.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the vote.

Ayes

Gélinas.

Nays

Colle, Dickson, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to the carrying of schedule 1, section 5. Is there any further discussion on the schedule? There being none, shall schedule 1, section 5, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): None opposed. Schedule 1, section 5, is carried.

We shall move to schedule 1, section 6. We have PC motion number 18. Mr. Walker?

Mr. Bill Walker: I move that clause 6(c) of schedule 1 to the bill be amended by striking out “who owns or operates” and substituting “who operates”.

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Further discussion?

Mr. Bill Walker: Consistent yet again, Mr. Chair—at some point, I’m looking for a win here. I’ll wear them down, if nothing else. I know my buddy Joe is just waiting to vote for me over there.

Again, to be consistent, we just want to make sure that the legislation addresses the difference between franchisors, who license the ability to operate a business, and those who are franchisees, who actually are the day-to-

day operators—those people who are at the front line with the citizen, with the consumer, and actually providing the service or product, whatever it may be. At the end of the day, we don't want to inadvertently place a burden on someone who is not in compliance and allowing those who are in non-compliance to not be penalized or suffer the burden of their consequences and their actions.

We want to just make sure—we're trying to amend to ensure that this legislation will actually put the burden of operation on those who truly are the operators, as opposed to just blessing it with the word "owner," without understanding that it truly is a licence to operate as opposed to the owner of the business.

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Mr. Hillier.

Mr. Randy Hillier: I find it interesting that we're going to delegate authority under this act to the Lieutenant Governor in Council, cabinet, to make regulations specifying or clarifying the meaning of a person who owns.

Somebody who owns is already a legal definition. Ownership is recognized in law. If somebody owns shares, if somebody owns a deed or a title, that is already defined. Ownership is defined in law. Now, under this act, we're going to give cabinet the ability to change who is an owner. I find that astonishing, just absolutely astonishing. How can we put that sort of authority into the hands of cabinet, to define who an owner is? It's done through contract law, it's done through our property registration system, it's done through corporate law. That is an inherent part of the law already, to define who is an owner. I can't believe for the life of me that we would want to give the authority to cabinet to define who an owner is. I think you've gone a little bit too far on this one.

I'm fine with who the operator is. That may not be clearly defined in law, but the ownership is clearly defined, and we can't—if I have a contract, or if I have a deed, or if I have a share or all the shares, for the government then to say I am an owner or I'm not an owner—I think this one hasn't been thought out very clearly by the government, about giving that authority.

"May make regulations ... specifying or clarifying the meaning of 'a person who owns or operates.'" I think this clause—fine. Let's give cabinet that authority to define, by regulation, who is the operator, but not who the owner is. That would be a dangerous, dangerous position and delegation of authority, in my view. I'd like to hear from the Liberal side, how will cabinet define who an owner is?

The Chair (Mr. Grant Crack): Okay. Any further discussion? Mr. Hillier.

Mr. Randy Hillier: I didn't hear any response to my query. Really, is that what the government is intending to do, to be able to decide, through regulation, who is an owner? There are no caveats on here, Chair. There are no qualifications on here. The way the bill is written, they could say that anybody named Randy is the owner of Tim Hortons, or anybody named Mr. Crack is not the

owner. I think we have to be somewhat cautious here that we're not using a 10-tonne high hoe to smack a little calorie somewhere along the line here.

1550

In good conscience, I can't imagine that anybody would want to give that authority to the government, to cabinet to define who is an owner. Again, operation—fine. There could be some grey areas in operations, but not in ownership. Either you own shares, you have a partnership agreement or you have a deed. You've got the whole plethora and the hundreds of years of common law, statute law, contract law and everything that has already defined who an owner is. And now we're going to throw that all away and just say, "Cabinet's going to decide who an owner is"?

I think the Liberal members are maybe hoping for a little too much here. But that is the authority, if this bill gets passed and if this clause remains the way it is. You're saying that cabinet has the authority—the lawful, legal statutory authority—to decide who owners are and who is not. I know everybody on the Liberal side has a lot of confidence in their cabinet, but I think you're going a little bit too far. Cabinets change frequently. You don't know who's going to be in cabinet next month, let alone next year or the next decade from now, but you're going to say that whoever it is, they can define who an owner is. It's scary—scary.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the question on PC motion number 18.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): PC motion 18 is defeated.

We shall conclude with schedule 1, section 6. Any further discussion? There being none, shall schedule 1, section 6, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): None opposed. Schedule 1, section 6, is carried.

We have a new section proposed by the third party, the NDP. Motion number 19: Madame Gélinas.

M^{me} France Gélinas: I move that schedule 1 to the bill be amended by adding the following section:

"Review re: sodium content of foods

"6.1(1) The minister shall establish a committee to review whether information relating to the amount of sodium contained in standard food items sold or offered

for sale at regulated food service premises should be required to be displayed at the premises in accordance with section 2.

“Recommendations

(2) The committee shall complete its review and submit its recommendations to the minister on or before January 1, 2017.”

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Madame Gélinas.

M^{me} France Gélinas: Well, I have tried, very unsuccessfully so far, to make sure that we would include not only calorie labelling but sodium labelling on restaurant menus. Given that this has failed, my backup backup is to make sure that at least we have in the bill a commitment to look at it again before 2017. All that does is mandate the ministry to look at it again, and by a certain date. That certain date is 2017.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? There being none, I shall call the question.

Ayes

Gélinas.

Nays

Colle, Dickson, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): NDP motion number 19 is defeated.

Schedule 1, section 7: We have NDP motion number 20. Madame Gélinas.

M^{me} France Gélinas: I move that section 7 of schedule 1 to the bill be struck out and the following substituted:

“Commencement

“7. The act set out in this schedule comes into force on January 1, 2016.”

The Chair (Mr. Grant Crack): Any further discussion? Madame Gélinas.

M^{me} France Gélinas: Thank you. Basically, I have been working on calorie labelling for a very long time—close to seven years. I’m very happy that we’ve had first and second reading and committee hearings and we’re doing clause-by-clause. But I still have this little doubt inside of me that it will never be proclaimed. So rather than leaving it to proclamation at a date that nobody knows, I’m putting a date into the bill so that we know that by January 1, 2016, all the good work that we’ve done so far will have to be enacted, will have to be proclaimed, will become law in Ontario.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Hillier.

Mr. Randy Hillier: Thank you, Chair. I’ll be voting against this, and for this particular reason: As we’ve been going through clause-by-clause, and as we listened to the many, many presenters to this committee, it’s clear that there is going to be a substantial amount of work that is

going to be left to ministry administrators and the bureaucracy to actually put good language into this law so that we’ll know who the owner is, for example.

As the member for Nickel Belt said in a number of her amendments, had she had more time, she would have had some different amendments put forward. The last thing we want to do when we have broad enabling legislation such as this that has a lot of unknowns, a lot of doubts, a lot of uncertainties about actually how it’s going to be developed—the last thing we want to do is put a time frame to it, which may end up getting things wrong.

I’m in favour that this act doesn’t get proclaimed into law until hopefully we’ve got the regulations right and that more time is afforded to those ministry officials to develop the regulations than the time that we’ve been afforded in creating the authorities under this act. Clearly we’ve not given ourselves enough time to properly scrutinize all the details of this legislation. We don’t want to compound that problem by not giving the bureaucracy enough time to consult with people and to get the regulations right.

I know we all like to have certainty and we all like to know when things are going to be done, but there are too many unknowns in this piece of legislation as it is that, in my opinion, we don’t want to put a date just for the sake of a date and maybe rush things and miss things in the development of the regulations.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Ms. Vernile.

Ms. Daiene Vernile: We have heard from industry stakeholders. They have reached out to us, and their communication is that they require more time in order to be prepared for this when it happens. If you look at the next motion, you’ll see that there is a date for January 1, 2017, to bring it into full force.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the question on NDP motion number 20.

Ayes

Gélinas.

Nays

Colle, Dickson, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): NDP motion number 20 is defeated.

We shall move to NDP motion number 21. Madame Gélinas.

M^{me} France Gélinas: Motion 21 is very similar to 20. It reads as follow:

“Commencement

“7. The act set out in this schedule comes into force on January 1, 2017.”

1600

The Chair (Mr. Grant Crack): Did you read “I move”?

M^{me} France Gélinas: No. I move that section 7 of schedule 1 to the bill be struck out and the following substituted:

“Commencement

“7. The act set out in this schedule comes into force on January 1, 2017.”

The Chair (Mr. Grant Crack): Thank you very much, Madame Gélinas. Continue.

M^{me} France Gélinas: Basically I’m not giving up easily without a fight. I have been defeated so far. But 2016 is too soon. How is 2017?

The Chair (Mr. Grant Crack): Further discussion? Ms. Kiwala.

Ms. Sophie Kiwala: I’m very pleased to say that this amendment fits into the government’s intentions for the implementation of this particular schedule of the bill. It does give us sufficient time to consult with industry on the regulation and for industry to prepare for the coming-into-force date.

We are in agreement with our colleague from the third party on this amendment. We know that the member from Nickel Belt feels strongly—we’ve heard it mentioned a couple of times before—about this aspect of the bill and this proposed legislation, and we’re pleased to be able to work together to strengthen this legislation.

The Chair (Mr. Grant Crack): Any further discussion? There being none, we shall call the question. Shall NDP motion number 21 carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahan, Vernile.

The Chair (Mr. Grant Crack): None opposed. NDP motion number 21 is carried.

We have schedule 1, section 7. We have just passed one amendment. Any further discussion on the section itself? I shall call the question. Shall schedule 1, section 7, as amended, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McMahan, Vernile.

The Chair (Mr. Grant Crack): None opposed. Schedule 1, section 7, as amended, is carried.

We shall move to schedule 1, section 8. There are no amendments. Is there any discussion on schedule 1, section 8? There being none, shall schedule 1, section 8, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McDonnell, McMahan, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 1, section 8, is carried.

We shall move to the entire schedule, schedule 1, as amended. Any discussion? Shall schedule 1, as amended, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McDonnell, McMahan, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 1, as amended, is carried.

We shall move to schedule 2. There are no amendments in schedule 2, section 1, and/or schedule 2, section 2. Can I join them? Is there any opposition by committee members to join them for one vote? Okay. Any discussion? Shall schedule 2, section 1 and section 2, carry?

Ayes

Colle, Dickson, Gélinas, Kiwala, McDonnell, McMahan, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, sections 1 and 2, are carried.

We shall move to schedule 2, section 3. We have NDP amendment number 22 to schedule 2, section 3, subsection 6.1(2) of the Smoke-Free Ontario Act. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 6.1(2) of the Smoke-Free Ontario Act, as set out in section 3 of schedule 2 to the bill, be amended by striking out “a flavoured tobacco product” and substituting “a flavoured tobacco product, including flavoured cigarette papers”.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: We had a number of deputants come to us to say that the way we had it worded in the bill basically did not take into account that not only is the tobacco flavoured, but the cigarette papers are also flavoured. They came with a big bag full of samples of what those look like.

The bill allows us not only to regulate tobacco, but it also allows us to regulate the packaging of tobacco. If the packaging can be regulated, then part of the cigarette can be regulated as cigarette paper also. So I would strongly urge that if we want to be done with flavour once and for all, never underestimate the creativity of the tobacco industry. We have a chance to do this, to not only ban flavoured tobacco but flavoured tobacco cigarette paper. We should do this now while the bill is open.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. Walker.

Mr. Bill Walker: I just want to restate for the record, as I said many times during the actual deputations, that I would have liked to have seen something in this bill that would have actually made it illegal for youth to purchase or sell cigarettes, including papers. I think this would

have had a lot of extensive weight. I think it would have certainly made those youth think twice before they actually did it. A lot of what we hear in our ridings, and certainly I hear it in my riding, is that that's where a lot of the youth smoking initiative is taking place. They're being able to access particularly contraband cigarettes on school facilities, on their grounds. There's nothing there that really prevents them.

Certainly alcohol—I have two young gentlemen, sons, and alcohol is illegal for them. They think twice about that. In this case, cigarettes, which are at least equal in detrimental health concerns—certainly there's that perspective—I would have liked to have seen that in the legislation. I think it would have been yet another tool and another resource to make our youth think before they do it.

Right now, they can buy it pretty cheaply; they can buy bags of 200 cigarettes for around \$8. That makes it pretty much a gateway. If we want to talk gateways—that word came up a lot in this legislation—it would have been something that would have been punitive. It certainly would have made our youth think. I really would have liked to have seen it in the legislation.

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

Mr. Jim McDonell: Thank you. I'd like to go on record, too. I've spoken throughout this bill about the fact that we gather our youth together in one spot to make them a target for people who are selling, certainly, contraband. In my riding, which is right along the border with New York state, we're looking at somewhere over 70% of the cigarettes smoked in these areas are actually contraband.

In talking to a former high school principal, he talked about when he was out there, knowing past students who have gone by and knowing who's in the school, he would often see somebody out there selling products—sometimes it was contraband cigarettes; sometimes it was something much worse—and not having the ability to do anything with the person because they force them out onto public property. If we were to make the consumption illegal, we could get rid of that problem.

We talk about, in this province, how we're seeing levels go up. We've made a group of students collect as kind of the cool gang. We've given them targets so they can buy very cheap cigarettes. You can raise the taxes all you want, but if you can buy something that's about one twentieth of the cost, then the price does not become prohibitive.

When you look at the high percentage, especially in my region, of people who are selling illegal tobacco products that are not regulated—nobody knows exactly what's in some of these—plus the fact that it's creating a group of people who are very susceptible to some of the other drugs that we're trying to keep out of society, it just doesn't make a lot of sense. If you were to make it illegal, the local law enforcement could stop at least the collection place. It would have a lot more results if we're really trying to get this group not to smoke. We do it with

alcohol; we do it with a lot of things. So why do we not go that extra step?

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

1610

Mr. Randy Hillier: Thank you, Chair. Listen, I don't know a whole lot about flavoured cigarette tobacco papers. In my day, they didn't have them. But what struck me about this was when we were listening to the person with medicinal marijuana on the proposed changes with the vaporizers and not being able to use a vaper for their medicinal marijuana.

I'm just wondering: Are flavoured papers used more in the tobacco part or are they more in the medicinal marijuana part? I don't know for sure. We never had the opportunity to explore that during the presentations. When we heard that fellow speaking about medicinal marijuana use and the unintended consequence of taking away a less harmful way for him to ingest that marijuana by compelling him to burn it and smoke it instead of vaporize it, I'm just wondering: Are flavoured papers used more in the medicinal marijuana field or is it more in tobacco? If anybody has an answer or insight on that, I'd be happy to hear it.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I think it's used in both, but the people who smoke marijuana never came forward and requested that the flavoured paper not be banned. They would be just happy to roll on regular paper. They came to see us specifically for vapour, which will come in the next part of this bill.

As far as flavoured paper, nobody has ever spoken against banning flavoured paper.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Ms. McMahan?

Ms. Eleanor McMahan: Thank you, Mr. Chair. This is one of those amendments and issues where there is shrieking agreement that protecting young people from the dangers of tobacco is something I think we're all consumed with, interested in doing, wanting to do. Certainly this legislation, I think, goes a long way in protecting our young people in spades. We don't want them to start smoking in the first place.

However, while there's agreement of the spirit, sometimes the vehicle can be a little problematic. In this case, the Smoke-Free Ontario Act regulates tobacco products, as my colleagues will know. Cigarette papers don't contain tobacco, so they fall outside the rubric or the—

Interjection: Scope?

Ms. Eleanor McMahan: The scope of the legislation; thank you—a senior moment. Perhaps another vehicle is necessary, and another way to accomplish this is perhaps worth looking at. Of course, were we to do that, undertaking a consultation with stakeholders would likely be appropriate. I guess what I'm trying to say, Mr. Chair, is that this is one of those occasions where we all agree with the spirit, but the vehicle is outside the scope. So

we'll be voting against this particular amendment. Thank you.

The Chair (Mr. Grant Crack): Okay, thank you. Further discussion? Ms. Gélinas and then Mr. Hillier.

M^{me} France Gélinas: It is not quite accurate, I don't think, but I'll stick to what I know. The bill allowed tobacco to be packaged in accordance with regulation. We can regulate packaging. This is part of the Smoke-Free Ontario Act. The packaging and the paper parts of the cigarette can be regulated. In the Smoke-Free Ontario Act, we talked about regulations to the filters, to basically how you make cigarettes. It is clear to me that we can regulate the paper to roll the cigarettes. We already regulate the packaging, the—I forget what it's called when you have the filter attached to paper. These are all parts of the Smoke-Free Ontario Act. We already have regulations for that, so there's no reason not to regulate rolling paper.

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

Mr. Randy Hillier: I found that argument quite interesting from the Liberals: Because the cigarette paper doesn't have any tobacco in it, we can't regulate it. I know we've got a whole section about vaporizers that don't have any tobacco in them, but we're regulating those. We regulate the warning labels on cigarette packs. The package doesn't have any; it's paper. It's a different type, a different stock of paper than the rolling papers, but it's still just paper. But we regulate the warnings on tobacco packages, so I find that that argument doesn't quite hold a lot of water, that we can only regulate things that actually have tobacco in them. We're also regulating use and a whole bunch of other things. I'm going to remember that comment from the Liberal members about the regulations and that they will only apply to tobacco products and not to those products that aren't tobacco.

I'm just going to put this out there: I don't know how many people are still rolling cigarettes. I can't imagine it being a great deal of people, and I would suggest to the committee members that far and away the greatest majority of people buying rolling papers are doing it for marijuana and not for tobacco products. It's maybe another one of those unintended consequences for the medicinal marijuana people that we'll be exposed to later on down the road with this clause.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Ms. McMahon, I believe—

Ms. Eleanor McMahon: It's okay, Chair. I'll take a pass, thanks.

The Chair (Mr. Grant Crack): Okay. Any further—Madame Gélinas.

M^{me} France Gélinas: I can feel that I'm going to face defeat. I think we're making a mistake here. I think we're leaving a loophole that the tobacco industry will jump on with two feet. By the time we go out and ban flavoured tobacco, watch out; the creativity of the tobacco industry knows no bounds. They now know that in Ontario it is okay to use flavoured paper, and look at what that will bring us: I guarantee that they will use this loophole to

the detriment of all of our kids and to the detriment of all of the young people in Ontario who will start smoking, because today we had an opportunity to ban flavoured rolling paper. That's a loophole that the tobacco industry is looking to. They are listening right now, and they are clapping for you.

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

Mr. Jim McDonell: I guess I can't help but think that we're doing all this work here to stop our children from smoking when we know it's not working. It's actually increasing. I just don't understand how we're going to have any impact if we don't go out and actually make it illegal for them to smoke, because as far as I know, when it comes to contraband cigarettes, I don't think this law will apply.

More than half of our youth are actually getting hooked on tobacco through contraband, and you're not giving anybody the tools to stop that. You've been unsuccessful at controlling it, and this bill does nothing to control contraband cigarettes. Are we really looking at something that—it adds a lot of flour to the effort, but it's really not doing anything unless you give the ability to our law enforcement to actually enforce the use of tobacco with youth.

You're going after the legal people here. I don't support a lot of what's being done here, but the real impact is likely through the illegal people. Plus, somebody can walk into a store with a fake ID and get a lot of this stuff, and you go after the owner; you don't go after the person who is actually breaking the law. I'm wondering about that.

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

M^{me} France Gélinas: A last word of caution: All of the flavouring agents that take the harshness out of tobacco will now be applied to the inside of the rolling paper. What made it appealing for kids because it smelled good and didn't taste as harsh will still all be there because we are voting down the regulation of flavoured paper.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Hillier.

Mr. Randy Hillier: I just have to jump in on that one.

The Chair (Mr. Grant Crack): Okay.

Mr. Randy Hillier: Sorry about that. Listen, I take your argument very well, and there's much merit to it, but I would say that when we look at this bill in its entirety, we are saying to smokers that any option to reduce the harm from tobacco smoke—we're not going to allow you to reduce the harm. We're not going to allow you to wean yourself off by using vaporizers or anything else.

1620

I think not so much schedule 2, but schedule 3 of this bill is going to condemn people to smoking for a much longer period of time, and we're going to end up with thousands and thousands of premature deaths due to smoking each and every year because we're severely restricting the options and opportunities for people to kick the tobacco habit.

I take the point with the flavoured papers, but I'll tell you, that's pretty small potatoes compared to actually preventing people from quitting smoking by what's in schedule 3 of this bill. Thanks.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

There being none, Madame Gélinas has moved NDP motion number 22.

Ayes

Gélinas, McDonnell, Walker.

Nays

Colle, Dickson, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): NDP motion 22 is defeated.

Next in your packages, you'll see we've gone from 22 to 28. I apologize. It's still in the right place, but the numbering is wrong, so I apologize for that. I hope it's not confusing, but it is still the next one after 22. It's where it fits into the schedule.

Mr. Randy Hillier: Twenty—

The Chair (Mr. Grant Crack): Okay. So we went from 22. We're going to go to 28, then to 23, and then after 27, there's going to be no 28. It will go to 29. The one they have that says "28"—

Mr. Randy Hillier: Twenty-eight is next?

The Chair (Mr. Grant Crack): —is the one that goes between 22 and 23. Really, I could change it to 22.5, but it's 28.

Interjections.

M^{me} France Gélinas: I go?

The Chair (Mr. Grant Crack): Is everybody okay?

Madame Gélinas.

M^{me} France Gélinas: I move that subsection 6.1(3) of the Smoke-Free Ontario Act, as set out in section 3 of schedule 2 of the bill, be struck out.

Basically, what that does is, there's been lots of discussion about menthol tobacco. There is a section in the bill that allows cabinet to exempt some flavoured tobacco. I have been working on this with a number of people for a long time to ban flavoured tobacco. I had a private member's bill shared with a Liberal MPP—it was Dave Levac at the time—which was successful in passing.

We know that there is support on both sides of the House to ban flavours. Don't open up loopholes. The amount of lobbying that will be done directly and indirectly to get you to exempt menthol will be phenomenal. Basically, it's better not to open up this window at all.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the question.

Shall NDP motion number 28 carry?

Ayes

Gélinas.

Nays

Colle, Dickson, Kiwala, McDonnell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): NDP motion 28 is defeated.

We shall move to PC motion number 23. Mr. Walker.

Mr. Bill Walker: Thank you very much, Mr. Chair. I'll shuffle the papers.

I move that section 6.1 of the Smoke-Free Ontario Act, as amended by section 3 of schedule 2 to the bill, be amended by adding the following subsection:

"Exception

"(4) Subsection (2) does not apply with respect to menthol flavoured cigarettes."

The Chair (Mr. Grant Crack): Further discussion? Mr. Walker.

Mr. Bill Walker: A number of points: I think we just need to make sure we put on the record before we do the final here, one of the things that I think was shared with us during the deputations. The Propel study found that only 4% of youths had tried menthol tobacco in the previous 30 days. Certainly, that's conclusive that it absolutely is something that's going to move them, one way or not.

Most youth who use menthol obtain it from social sources. There are almost double the amount of menthol products in the contraband market than there is sold legitimately. A number of deputations, a number of the items that were emailed to us or sent into the committee for discussion and consideration showed that a lot of those people anecdotally—we met with the convenience stores' association, the Korean business association. They did their own surveys, and they asked people coming in to buy—obviously adults—if they would stop smoking menthol, or would they just go and find it in another market? Almost 100% said that they would go to the contraband market.

A lot of my focus here is on, again, we're doing nothing about the contraband. That's a big, big piece of the challenge we're facing with youth, but equally as much with adults. The challenge I have is that this legislation—lots of good merit in it; I support the bulk of the legislation in many regards, but I think they've missed a real opportunity here to truly address—if it's making healthier choices, there was an opportunity there to target that area that we all know—we had deputants in telling us; the reporting in society is telling us. All members of this House know that contraband is an issue. It certainly has a huge impact not only on our taxation realities; it has a huge impact on our health care system. We know many people are going there.

As I've said a number of times both during deputations and today, youth anecdotally—when I've gone out in my riding and spoken with actual young people who are smoking, not one, actually, has mentioned menthol being the supposed "gateway" to them; it has been contraband cigarettes. "I started because a lot of my buddies could get this very freely, very cheaply. They brought a

bag of it. There was a lot of peer pressure. We started,” and that’s where they continued on. They continue on with the contraband because it is so inexpensive compared to purchasing legal cigarettes out there.

At the end of the day, Mr. Speaker—or Mr. Chair, sorry; I’m bumping you up a couple of notches there—it’s concerning here. Again, I want to put in some consideration for those adults who smoke menthol. I’ve said unequivocally, I watched my sister die in a hospital bed as a result of lung cancer from smoking. There’s nothing more horrific that will ever be etched in my mind, I don’t think, than watching that happen. But at the end of the day, they are adults. They’ve made their choices. My fear is, we’re not going to actually stop them from smoking; we’re going to send them to an illegal, illicit market that supports things that are even worse, things like human trafficking, gangs, illegal weapons and drugs. That’s where I would have liked to have seen some meat and some teeth in this legislation to actually tackle that.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Yes, I agree. I think studies show that almost 50% of the adult population that smokes, smokes menthol. This is a flavour that has been available. You see from the stats that the youth side is in the neighbourhood of 4%, so obviously that’s not attracting people to smoke. That’s not what the science shows.

But you’ve taken something that’s legal and been used—I don’t know very many smokers who haven’t tried to stop smoking—and you’re going to take this away from them when really, there’s no reason for it. You’re going to drive another group of people into contraband that’s not doing that today, which is contrary to what this bill is trying to do. And there’s nothing in this bill that actually goes after the contraband. In a lot of ways, you’re going to be encouraging it by making flavours that are not only readily available, but are well-used today, and expecting people to just obey the law and to change when they can go out in most areas—at any high school now, they can go up and buy freely, because we’ve created a marketplace. It’s not intentional, but we don’t seem to have any gumption to change that.

You’re penalizing people who have been playing by the rules—lawful people. This will just be the last straw. I think it’s gone too far.

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

M^{me} France Gélinas: I have introduced and re-introduced this bill many, many times. I would say that from 2008 till about 2010 or 2011, whenever I introduced the banning of flavoured tobacco, I always exempted menthol. Since then, the body of evidence from research has become more and more robust that we will do more good than harm by making sure that menthol is also banned. So I can’t support a motion like this.

1630

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. Walker?

Mr. Bill Walker: Just one last point. I think it’s just on principle that, again, an adult has the ability to make

choices. There’s nothing illegal at this point that I’m understanding, and I certainly to a degree agree with France. There probably is some good and bad, but on principle adults need to have accountability and make choices for themselves. Simply banning it is not going to necessarily make them stop smoking. My fear is, they’re going to go somewhere else and they’re going to continue to actually smoke more, and there’s no benefit to any of us if we go that route.

So I’m weighing it a little bit the opposite way, saying: Is this really something that’s going to be impactful? We’re using a lot of the argument that it’s about youth. I’m not certain that that’s scientific and can actually truly suggest that that’s the indicative case. I just think at the end of the day what we’re trying to say here is, they’re on the market; they’re legal. A number of the amendments that are going to come forward with cigarillos, snuff, a lot of those things—it’s an opportunity for that adult to make a choice, and if they don’t make the choice because we make this illegal, are they going to stop or are they going to go to an illegal market, which, to me, their health is still going to be negatively impacted—maybe worse, because if they can go to that contraband and buy it so cheap, they may actually smoke two, three, 10 times more than what they currently are today and what their normal package is.

If someone’s buying legal menthol cigarettes at \$90 a carton and they have limited income, they’re only going to buy so many cigarettes. If we make this illegal and they somehow get into that contraband market and now they can buy 200 cigarettes for eight bucks, the reality is—I’ve got lots of smokers as friends and lots of smokers in my family, sadly. It’s one after another. If it’s accessible, if they have 50 of them there, they smoke 50 of them. But if they only have three, they only smoke three.

I just think this is—you know, in spirit, I definitely agree, and I understand. I’m just not certain that we’re not going to have inadvertent, negative impacts by doing this.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Walker. I acknowledge Mr. Hillier.

Mr. Randy Hillier: Thank you, Chair. From what I heard in the presentations, overwhelmingly the people who use menthol cigarettes are adults—very limited evidence of youth using menthol cigarettes.

Listen: People who are addicted to nicotine are going to continue to get their nicotine. I don’t see this having much effect on people other than, for those adults who are using menthol cigarettes, they’re going to go elsewhere. From all the evidence that we’ve seen, this is not a flavour that’s targeted or that even appeals to youth, but it does for adults. As my colleague said, I think we’re just going to drive otherwise law-abiding adults but who are unfortunately addicted to nicotine to go into the contraband world to get their nicotine fix, especially after we’ve made it so difficult for them to look at other options, such as vaporizers, afterwards.

I think this is a good amendment to support—not for any other reason than to recognize what we heard, that

this is a flavour that is targeted to adults and one that appeals to a broad section of people who are addicted to nicotine, and do we want to drive them into the contraband market with this bill? We want healthier choices, not to promote unlawful activities with this bill. Thank you.

The Chair (Mr. Grant Crack): Thank you. Ms. McMahon.

Ms. Eleanor McMahon: Thank you, Mr. Chair. I want to respond to the honourable member and say to Mr. Walker how sorry I am that you lost family members to cancer. I, too, have lost family members to cancer.

You talked about your fear. You have fears about—you have certain concerns, if you want to put it that way, and you're not sure how much of an effect this is going to have. Well, I have fears too, and my fears reside in young people starting smoking.

If we understand the data, which tells us that only about 5% of adult smokers use menthol, if we accept the fact that we should do anything we can to stop young people from starting smoking, full stop, and if we accept the fact—and data tells us this—that there is a significant percentage of young people who are smoking menthol cigarettes—why? Because it makes the smoke less offensive to them, and that's what the data is telling us—then this bill is about protecting young people from starting to smoke in the first place. In particular, prohibiting flavoured tobacco products appealing to young people really is an important part of our common goal—at least, I think it is a common goal—of stopping young people from smoking, notwithstanding the social contract that we have with people to protect them.

It's interesting. I'm not going to compare smoking to seat belt use, but I was married to a police officer so I guess this is resonant in my mind. We all have choices; you're absolutely right. But we can choose not to wear a seat belt too and we can get fined for that. Why? Because they're life-saving, and it's proven in data that they are life-saving.

I'm passionate about this, Mr. Chair, as you can probably tell. I think it's important that we prevent young people from starting to smoke in any way, shape or form that we can. This is an important mechanism for doing that.

The government has announced that it intends to exempt menthol tobacco from the flavour ban for a period of up to two years. I still think that this is a really key commitment of the government. We've said so. I think we've been very clear. For that reason, we're not going to support this motion, Mr. Chair. Thank you.

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

Mr. Jim McDonell: I guess I might dispute that evidence, because when you look at the notes here, only 4% of the youth group actually smoke menthol. They're not starting because there's menthol available, but later on in life they move to menthol because, I think, up to 50% of adults are smoking menthol. That's the change that happens later on. Really, menthol seems to be a choice of adults, not children.

That's why I say you're taking a choice away from 50% or more of the population that legally smokes them. You're doing very little for the other side. You're making it a huge issue for people who have been smoking all of their lives, and it's not going to have any significant impact on people who are 19 or younger because science is showing that they aren't learning or starting on menthol.

As I say, if you really want to have an impact—and I suggest that we should—ban all cigarettes and make it illegal for those 19 years old and under to smoke, period. Get rid of a lot of the stuff that's encouraging contraband and encouraging people to start smoking, because if you want to belong to that group sitting out on the sidewalk, you have to smoke. That's a fact.

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

Mr. Randy Hillier: Thank you, Chair. I find it interesting that the member would conflate seat belt use with an addiction. She said that some people may choose not to wear seat belts. I don't think anybody is addicted to chewing seat belts or smoking them. We're talking about an addiction here with people, and they're not the same.

I'm sure the member understands what an addiction is. That's why we've created that term. People get addicted to nicotine. Nicotine is a very powerful addiction. Some people describe it as the most powerful addiction, and I think there is a lot of evidence that supports that.

I don't think we want to use the seat belt argument. That would be like saying, "Why do people get addicted to heroin? It's just a choice and they could have not worn their seat belt as well," or whatever. These people need help and assistance. They need some compassion, they need some understanding and they need a way to reduce their addiction, not to move into the grey market or the black market or the contraband or illegal market to satisfy that addiction. I hope that's not the government's intention—if you have an addiction, then you must go into the black market and into the contraband market to satisfy the addiction. It certainly wouldn't be a very compassionate way to deal with this.

1640

I would just also—the Liberal member did mention that they want to do everything—and she emphasized "to do everything"—to stop youth from getting addicted, which, I think, is a good, noble and proper initiative and intention. But if you were going to do everything, you wouldn't target an adult flavour while at the same time not consider making it unlawful to own or possess or use tobacco for youth.

Right now, at the moment, it is not unlawful for youth to own, use or possess tobacco. My colleagues have brought that up time and time again. So you're not doing everything. You're doing some things. You're not doing everything. Some of the things that you are doing I think actually will drive adult law-abiding citizens who are addicted to tobacco into the contraband and black market and become not-so-law-abiding, as well as being addicted.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Mr. Walker.

Mr. Bill Walker: Thank you very much, Mr. Chair. Obviously, I appreciate the acknowledgement by the member from Burlington in regard to my sister. We've all—probably in this room, and anyone who's listening, anyone who's going to read this—suffered similar realities and sadness as a result of this. That's not really the point I was trying to make. The point I was trying to make is, I worry sometimes that we're getting caught up in partisan attempts to use legislation to sell something as opposed to the real fact here. I'm going to talk about a couple of things.

The seat belt—I agree. It's not really an appropriate parallel, because seat belts are yes or no. With the tobacco industry, there is an alternative. There is an illegal alternative. So I think those don't jibe with me, because, certainly, I'm a big proponent. Yes, that was something that we proved, and you can use the nature of that legislation, that it was good. I think most people now, my kids, they would point at mom and dad and say, "Make sure you have them on." As good role models, we would put them on so our kids would wear them. But here, the youth that we're supposedly stepping up for and trying to have as our absolute biggest concern—you missed two huge opportunities to actually do everything in your power to stop youth, to prohibit youth from ever starting, that being contraband tobacco. There's nothing in this legislation that talks about it.

It bewilders me that you, as a party, continue to say, both in committee, in the House and here again today, that you want to do everything, but you did not specifically put anything about contraband in legislation that we know is where youth are starting, whether you want to use a study, or you want to actually talk to the kids, which is what I've done. That's where they're getting access to tobacco. Some of this other stuff—sure, some of it might prohibit, it maybe might not allow them to get into it as easily, but the biggest issue out there is contraband.

Making it illegal—I've offered that a number of times. Why would you not have brought in an amendment once it was brought to your attention, saying, "Yes, that's probably something we should be tackling"? If we were truly sincere about doing everything in our ability to prohibit youth, then why would you not take those two things: the contraband market—tackling that and making sure that it's certainly not growing and it's not going to be there; it is illegal—and making youth smoking—possession, sale—illegal? Those, to me, are two great things that could have actually enhanced this legislation. You would have had a lot easier way to get most of us to buy in had you done that, rather than making arguments about the odd other thing that might be detrimental and it might be a gateway.

There's a lot of "might." There's a lot of "we think." There's a lot of potential. But what's the reality of the two things that we know conclusively would have a huge impact to prevent youth from ever starting smoking? It

just bewilders me that we continue to go over this and it's not even in the legislation. It was never even considered as part of the legislation.

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Mr. McDonell.

Mr. Jim McDonell: I just wanted to add that when we think of contraband cigarettes, we think it's too bad that people are getting cigarettes or they're avoiding the taxes, but you have to look at some of the other consequences. I see neighbours of mine where their children have gotten caught up. There's so much money involved in this contraband. They end up in jail.

Our court system up here is fairly forgiving. A few of my neighbours' children have actually been charged in the States. The penalties down there are significant. They were talking about more than five years for something that the general public doesn't think is that bad: They're selling cigarettes. I'm telling you, if you take them across the border, that's not the way our neighbours to the south think. They get involved with this and it quickly becomes other things like guns and worse.

There's so much money in this. You drive through Cornwall and you see people, 16- and 17-year-olds, driving some pretty nice, very expensive cars. They're not getting this money—when you see people with a Hummer, you know where this money is coming from. It's just a common joke. But that's what you see around these border towns where this kind of money is there. More than the smoking side, it's wrecking a lot of lives because people end up in jail, and the families—barely a month goes by when there's not article in the paper where they've charged 25 people. A lot of them are American, but a lot of them are from my community. That's only because we've taken steps to make sure that this product is very expensive. You can imagine, with the information we're seeing here, that we're only going to expand the contraband market by expanding the need for menthol.

Anyway, that's a concern, and I think the opportunity starts from making the product illegal, where these people selling these products—these are students, and they're selling them to students in high schools. I've seen some of the penalties to some of the local stores that get caught up by somebody walking in and looking 25 years old and selling, but then we turn around and we don't do anything for the people who are smoking. We know that the vast majority—I think in my area it's somewhere over 70%, I've heard; they did a test at one of the local high schools, and 90% of the students are buying contraband cigarettes. This will have nothing to do as far as stopping that, but making the product illegal to smoke at that age would do a lot to stop it.

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

Ms. Sophie Kiwala: Just one quick comment: There's continual reference to the fact that contraband tobacco is not in this piece of legislation. That's because it comes under other legislation, the Tobacco Tax Act, which is through the Ministry of Finance. I just wanted to have that on the record.

The Chair (Mr. Grant Crack): Any further discussion? Mr. McDonell, then Mr. Hillier.

Mr. Jim McDonell: Just one point: I think you're missing the boat there. We're talking about the fact that not making the product illegal for somebody under 19 years old is enhancing or making the contraband much more serious. You can get tough on contraband—it is illegal now—but what's causing a lot of this is the fact that it's not illegal to smoke when you're under 19.

Actually, the other part that I think I made reference to was that for the 50% of the adults who are smoking menthol today, will they seek it through another market? We're finding out through studies that 100% of the 50% are saying that they will, so that will really go a long way to expanding the contraband market that we're now trying to stop.

You make changes sometimes, but you have to look at what the outcome will be. It probably won't be 100% of the 50%, but it will probably be 25% or 50%.

The Chair (Mr. Grant Crack): Mr. Hillier.

Mr. Randy Hillier: Just for clarification: The member for Kingston and the Islands mentioned that the taxation act deals with contraband. I wasn't sure what she was getting at. This Bill 45 amends a number of acts, including the Smoke-Free Ontario Act. It could also amend taxation acts. It could amend many different things. That was the argument: that this act is absent in its treatment or increasing authorities or restrictions on contraband tobacco, although it speaks a lot to tobacco.

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I'm sure the member for Kingston and the Islands has driven down through Marysville and Tyendinaga and the many, many contraband, illegal tobacco shops through Tyendinaga and Marysville and all that area, out towards Belleville. Maybe the members from Eglinton–Lawrence and other places don't see those contraband tobacco shops in their neighbourhoods; I'm not sure. But I can tell the members of this committee that not 10 miles from my home outside of Perth, there are two illegal smoke shops: one on Highway 7, one on County Road 10.

We've tried every avenue. We've approached every federal and provincial government agency and enforcement body to try to shut these illegal tobacco shops down. If you've ever seen a case of pointing fingers in different directions, it's the case of enforcement of laws on illegal cigarettes. And these are, like I said, within about 10 miles of Perth.

If anybody knows that area, there are no native reserves within 10 miles of Perth. This is on Highway 7. Actually, one of them on Highway 7 is right across from a provincial park, Silver Lake Provincial Park. There's a big sign, "Smokes." I'm sure there are countless ministry officials, OPP and RCMP who drive back and forth along Highway 7, and peace officers from the Ministry of Natural Resources going into Silver Lake park. Nobody does a thing about it.

If anybody—

The Chair (Mr. Grant Crack): Mr. Hillier, if you could just bring it back to the fact—we're talking about

something that's not really related to the menthol component.

Mr. Randy Hillier: Well, I just wanted to share—that illustration may not be seen by people on this committee who are representing downtown urban ridings. I don't know. I haven't walked all around Toronto and I haven't driven all around Toronto, so I don't know if there are a lot of contraband shops down here or not.

But listen, if you're going to say you're going to do everything, let's do everything. Let's not just pretend. Let's get to the bottom of the problem. Let's really put an effort into preventing youth from starting to smoke and not attack some other element that really makes up an insignificant amount of the youth market.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, Mr. Walker has moved PC motion 23. I shall call the vote.

Ayes

McDonell, Walker.

Nays

Dickson, Gélinas, Kiwala, McMahan, Vernile.

The Chair (Mr. Grant Crack): PC motion 23 is defeated.

We shall move to PC motion 24, which amends schedule 2, section 3 by implementing subsection 6.1(5). Mr. Walker.

Mr. Bill Walker: I move that section 6.1 of the Smoke-Free Ontario Act, as amended by section 3 of schedule 2 to the bill, be amended by adding the following subsection:

"(5) Subsection (2) does not apply with respect to menthol flavoured cigarillos."

The Chair (Mr. Grant Crack): And I believe "Same" is on the top of—

Mr. Bill Walker: "Same." My apologies.

The Chair (Mr. Grant Crack): That's fine.

Any further discussion? Mr. Walker.

Mr. Bill Walker: Yes. Very similarly again, we haven't banned these for adults. These are out there. Unless we're prepared to put a ban in place, then—yes, there's the potential that some youth may use them, and there's the potential that some flavours may entice some people to smoke. But at the end of the day, we've had a lot of people—deputations—talk to us. It is legal. You're kind of throwing the baby out with the bathwater in a headline to try to make it look like we don't support doing some of the things in this bill. That's not the case.

We just want to make sure that those people, those adults who have come forward to us and said, "This is my choice. This is my right, no different than drinking alcohol. It's legal." We know that alcohol, in excessive amounts, can be detrimental to your health, but we're not telling them that they can't smoke—can't drink; sorry, we've been talking about smoke all day—can't drink

flavoured rum. We're not telling them they can't drink flavoured whisky. There are all kinds of new flavours coming on to that market which have definite negative health impacts if you consume too much.

This is kind of the same principle I'm working on. An adult chooses to drink flavoured alcohol. An adult chooses to smoke flavoured cigarillos. Again, I don't have the numbers right in front of me on how big that market is. I go back, yet again: Here's an area where we're looking at a very small slice, a very small percentage of the overall issue, and yet we left out two very significant things here. They're going to go back to "Youth might smoke a flavoured cigarillo." Let's really address the problem.

To my colleague's point, they could have actually put in here the bill to the finance act. I've had discussions with some of the staffers on the exact same point, saying that if you really, truly were sincere about getting rid of this and about the health of all of our youth and them not smoking, then you would have included this in the bill the first time around. That's why we're taking every opportunity to ensure that people out there understand that we're trying to do this in a balanced, practical manner, we're trying to ensure that there's an ability to improve the health of all Ontarians, and there are tools at their disposal. Should they choose to put them in this legislation we would be having a much different conversation right now and we would probably be much more supportive than with some of the pieces that are already in here because we think they've missed the opportunity, certainly for the illegal portion for youth and the contraband.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Ms. Gélinas.

M^{me} France Gélinas: I just wanted to put on the record that in December 2008, Ontario actually enacted a ban of all flavoured cigarillos, including menthol cigarillos. That bill received royal assent and it became law. By the time the ink was dry on the bill, the tobacco industry had found a loophole in the bill, as in, "We describe cigarillos by the amount in grams of tobacco in it." They increased it by 0.1 gram and kept right on selling cigarillos. It's high time we corrected the loophole we left behind in 2008.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? There being none, I shall call for the vote on PC motion number 24.

Nays

Dickson, Gélinas, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): I'll give another opportunity: None in favour? Fine. The motion is defeated.

Mr. Jim McDonell: It was "for."

The Chair (Mr. Grant Crack): Yes, "for." Sorry.

Mr. Bill Walker: Yes, we were both on record as "for."

The Chair (Mr. Grant Crack): No, you weren't on record for your "fors"; I apologize.

We shall move to PC motion number 25: Mr. Walker.

Mr. Bill Walker: Thank you very much yet again, Mr. Chair.

I move that section 6.1 of the Smoke-Free Ontario Act, as amended by section 3 of schedule 2 to the bill, be amended by adding the following subsection:

"Same

"(6) Subsection (2) does not apply with respect to smokeless tobacco products."

The Chair (Mr. Grant Crack): Well done. Any further discussion? Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Chair. A couple of points I'd like to read into the record, particularly on behalf of those stakeholders who have brought it to our attention, so that people can make their own consideration.

The Canadian Tobacco Use Monitoring Survey reports that in the years 2008, 2009, 2010, 2011 and 2012, 1% of Canadian youth reported past 30-day use.

Smokeless tobacco's high price point is a deterrent for youth to purchase. I believe it's about \$17; I'm talking about the snuff at this point.

Product bans are unfair to adult consumers and law-abiding retailers who sell flavoured tobacco products.

The use of flavoured additives in a smokeless tobacco product does not necessarily mean that the product is flavoured or has a characterizing flavour.

It's consistent, again, with the discussion we've been having this afternoon. It's out there for the adults; it's legal currently. At this point I think we're utilizing the argument that it's going to entice youth, that it's going to encourage youth. That may very well be the case, but we don't know the numbers. We don't know exactly if it's absolute that they will do that because of those flavours. We have adults who have utilized these products for many, many years. If we're not going to put an absolute ban on them, then I think we just have to find a way to amend our legislation to allow those who are law-abiding—let's not forget, again, those law-abiding retailers. This is a market. This is a product that the consumer is demanding.

We again know, if we look at a lot of our fast foods in our province, our country and our society, they're not good for our health, but I don't see any bans on most of those out there. I don't think we're saying that we're going to get rid of all those things that are causing a great deal of obesity in our society. I'm not certain why we're not, but we're not.

Again, it's kind of using that same principle, that if we're not prepared to do that, we have to leave some accountability back to an adult to make their choice. If it's not illegal, then I believe again we're kind of throwing the baby out with the bathwater to some degree and on a lot of hypothesis of what it might do.

Yet again, I'm going to go on record for however many times today, that we're not addressing it through the two tools that I believe could give much more

credibility to what we're doing—and what we're trying to do is to keep youth from smoking, ever starting smoking or continuing to smoke—the contraband market that's out there and by making the possession and use and sale of tobacco illegal for all youth.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell.

Mr. Jim McDonell: Again, I think that in talking about the smokeless products here, we're talking about something that is not an issue with youth basically. It's much better than the alternative, which is actual smoking. You're going to drive people to that. People are addicted to the—I guess there's talk about snuff and chewing tobacco. I'm just not sure what we're trying to get at here.

Again, we have lots of studies, and lots of the science shows—and we seem to be ignoring this. What are we trying to get at? If you've got a large group of people where the majority use this type of product and we make it illegal just for the sake of “we can”—sometimes people, when they don't feel that Big Brother should have the ability to change things without some real reason behind it, they'll just ignore the law.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Madame Gélinas.

M^{me} France Gélinas: I would say that baseball season is about to start. If you're wondering if youth use chew, just go to any baseball game and look at the number of chewing tobacco containers that are on the bench. You will discover flavours that you didn't even know existed, which brings me to my second point, which is that if the industry was not interested in enticing young people, then why did they introduce so many new flavours in the last few years?

Frankly, if you put chewing tobacco in your mouth for the first time and it is not flavoured, you will spit it across the room. If you put in a piece of chewing tobacco that has been flavoured, really, it's not that bad. You can keep it in there long enough for the nicotine to do its work so that you get addicted and you want another chew.

Chewing tobacco needs to go the same way. If they didn't want youth to start, then don't bring out all of those flavours.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call for the vote on PC motion number 25.

Ayes

McDonell, Walker.

Nays

Dickson, Forster, Kiwala, McMahan, Vernile.

The Chair (Mr. Grant Crack): That motion is defeated.

Ms. Daiene Vernile: Mr. Chair, point of order.

The Chair (Mr. Grant Crack): Point of order, Ms. Vernile.

Ms. Daiene Vernile: Would you allow us a five-minute recess to use the facilities for those who need to?

The Chair (Mr. Grant Crack): Do I have the consensus to have a five-minute recess? That would be in order. So five minutes is very appropriate.

Ms. Daiene Vernile: Thank you.

The Chair (Mr. Grant Crack): And thank you for the break.

The committee recessed from 1703 to 1710.

The Chair (Mr. Grant Crack): Okay. We're on PC motion number 26, which is an amendment to schedule 2, section 3. It is a PC motion: Mr. Walker.

Mr. Bill Walker: I move that section 6.1 of the Smoke-Free Ontario Act, as amended by section 3 of schedule 2 to the bill, be amended by adding the following subsection:

“Same

“(7) Subsection (2) does not apply with respect to snuff.”

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Further discussion?

Mr. Bill Walker: This is one of those products that is legal for adults to consume. We had a deputation in. One of the things that I found very interesting is that smokeless tobacco sales accounted for less than one third of 1% of all tobacco sold in the province. I wasn't aware of that. I was certainly not aware that the products typically retail for approximately \$17 plus HST, or almost double the price of a package of premium cigarettes.

At the risk of you yelling at me, Mr. Chair, I'm going to share a little story. When I was a young man, the elderly neighbour next door invited me over, and he handed me this stuff. I, of course, being five or six years old, thought it was candy, so I took this stuff and put it in and gave it a little chew. It was sugar-coated or something-coated. Well, it tasted really good, and I thought, “Wow, I really like this.” It was like bubble gum. All of a sudden, all the sugar dissipated, and it was just whatever it was. I'll tell you, there was nothing nastier. I'm not certain I ever forgot that dear old soul. But he taught me a lesson.

I think I've maybe shared in the House before that I have two elder brothers—quite a bit older than me, in fact—and when I was about five years old, they gave me a cigar, and I turned green and was very ill. About five minutes later, they gave me a cigarette, and I turned green and was violently ill. Five minutes later, they gave me a five-cent cigar—they gave me one of each, anyway—and I turned violently ill again. So I'm not in the smoking category as a fan, you might say.

What we want to do here is be fair to those people. If it's not illegal, if it's something that they have the ability to make their choice, even if it's a poor choice—as I've said earlier, we don't ban flavoured alcohol—which we know, if it's consumed too much, certainly does damage—fatty foods, junk foods, lots of the things that I actually probably eat that are not good if you eat too much of them. We don't ban those.

I just think that some of this is going overboard. We're using the moniker that it's going to save the youth, that it's going to prevent every single youth out there from ever smoking, ever entering into the smoking world. I wish that was true, and if it was, I'd be the first person to stand up and support that. But I don't think it's the reality. I think there are a couple of other things that could have been done, that should be in this legislation and aren't.

I just want to make sure that we reinforce again that contraband wasn't in here—any application of contraband—to address what is a significant issue. It could have been, certainly, making it illegal for youth to possess, sell or utilize tobacco products. I think those could have been in there, and we'd be talking about a whole different story.

On this point, I think we're talking about something that's pretty small, pretty minuscule overall. I think adults who maybe have an addiction—and I think some of my colleagues have talked about it. I, fortunately, don't have that type of an addiction. I really don't know what that means, if you have one.

Just banning it outright—again, I think what happens is that they go to the illegal market. They'll find, in the contraband shops, a way to make smokeless tobacco that is going to appeal to those people. Again, they're not going to stop smoking; they're just going to a different vendor to get it. Then we're not truly addressing making this a healthier choices act for Ontarians. What this is doing is, it's optional, in which I don't believe we're truly addressing the health needs of our people.

The Chair (Mr. Grant Crack): Further discussion? Mr. Hillier.

Mr. Randy Hillier: Are we going to push people—a very small segment, regardless; one third of 1%—to a more harmful type of tobacco use? Are they going to now take up smoking instead of chew?

I can't imagine that the intention of the government is to move people from harmful tobacco products to more harmful tobacco products, but that's what I think is one of the unintended consequences here. A very, very small segment of the population uses this, hardly measureable by most standards—one third of 1%. But we're going to say that if you need to satisfy your nicotine addiction, you're better off to burn it and smoke it and elevate your likelihood of lung cancer and other diseases. We know that smoking is the most harmful delivery way to satisfy the nicotine addiction—the most harmful of any way.

I agree with my colleague. I think this is not going to benefit anybody. It's certainly not going to benefit society. It's not going to benefit those people who are addicted to nicotine and now might find that the only way to satisfy their nicotine addiction is by smoking. We should be doing everything possible to encourage people not to smoke, not give them incentives or give them reasons why they ought to smoke.

I think it's poorly thought out. I think if we had further time to hear from a greater number of people at committee, instead of the three afternoons that we did—and I know that we had hundreds of people who had requested

to be at the committee, but they were not afforded the opportunity to come. We limited it to three afternoons.

I do think that this amendment will be more likely to achieve the results that the government is looking to achieve of reducing people's probability of taking up tobacco smoking.

The Chair (Mr. Grant Crack): Thank you, Mr. Hillier. Any further discussion?

There being none, I shall call the vote on PC motion 26.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Forster, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): PC motion 26 is defeated.

We shall move to PC motion 27, which is an amendment to schedule 2, section 3. Mr. Walker.

Mr. Bill Walker: Thank you so much, Mr. Chair. It's a pleasure to speak today.

I move that section 6.1 of the Smoke-Free Ontario Act, as amended by section 3 of schedule 2 to the bill, be amended by adding the following subsection:

“Menthol flavoured cigarettes, cigarillos

“(8) Subsection (2) does not apply with respect to menthol flavoured cigarettes or menthol flavoured cigarillos unless the minister has tabled a report in the assembly that indicates that contraband tobacco represents less than 10 per cent of all tobacco sold in Ontario.”

The Chair (Mr. Grant Crack): Thank you very much, Mr. Walker. Discussion?

Mr. Bill Walker: Again, I think the concern we have is that a product ban could drive consumers, and probably will drive consumers, to purchase contraband tobacco. In some cases, they'll probably purchase a lot more and smoke a lot more, and thus, their health will be going in the wrong direction, as opposed to what this bill is intended to do.

The contraband tobacco market is estimated to cost the province about \$15 billion a year in lost tax revenue. We want the government to find true sources and to unequivocally prove to us that this contraband is less than 10%. If not, hopefully they will address it in the nature that we would have liked to have seen.

We know the contraband market is linked to other illicit activity, including human trafficking, gangs, illegal weapons and drugs. I've found, all through this whole debate on this piece of legislation, that it's something that no one seems to want to truly address. They find all kinds of, “Well, we can't, because it's a finance bill. It's not this bill.”

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If you were really sincere, you could have quite easily put into this bill—or a multitude of other bills over their 10 years of reign, by the way, Mr. Speaker. This isn't a

smoke shop just set up in the spring of 2015; this has been here for many years. We're actually seeing more of them going up. In my riding of Bruce-Grey-Owen Sound, we've seen a number more crop up. I've had actual discussions with people who are much more knowledgeable than me on these, and they know that these are true revenue resources too.

One of my colleagues said earlier that a number of young people who are associated with this activity are driving very, very expensive vehicles. I don't think it's from selling lemonade at their stands. I think it's from selling contraband tobacco to an increasing market. I think there are a lot of legitimate adult smokers who are now going to those smoke shops and are smoking three times, five times, 10 times more.

As I've said many times today and throughout this debate, I've spoken to the youth in my area. That's the gateway to youth smoking on school grounds and off school grounds. They can buy approximately 200 cigarettes for \$8. That is one way to get a lot of people smoking who otherwise, even from a financial perspective, can't afford a carton of cigarettes, but they can certainly afford a bag, or they pool their resources as young people and buy a bag or bags, and it just continues on.

This is yet again one of those ones that, rather than just using rhetoric and the odd hand-picked study, we want them to truly come with unequivocal evidence that states that less than 10%—I don't think that anyone who knows anything about the contraband market would believe we're even close that it's only 10% of all the tobacco sold in Ontario. It certainly isn't something in my backyard. Many of our colleagues have the smoke shops—illegal, contraband smoke shops—in their backyards. There's a lot of traffic and a lot of volume, and these people aren't going into that without doing their due diligence to make sure they can generate a lot of revenue.

So, Mr. Speaker, I hope we can find a way to move forward on some of these motions to actually truly get to the root and truly be able to help our youth not smoke and stop smoking.

The Chair (Mr. Grant Crack): Thank you very much. And it is a privilege to be called "Speaker."

Mr. Bill Walker: Oh, did I call you that again? My apologies.

The Chair (Mr. Grant Crack): Fourth time today. I'd remind all members of the committee that there is a process in place to choose the legislative Speaker, and I am not one of those who was there. So thank you very much.

Mr. Randy Hillier: I see the physical resemblance.

The Chair (Mr. Grant Crack): Any further discussion?

There being none, I shall call for the vote on PC motion number 27.

Ayes

McDonell, Walker.

Nays

Colle, Dickson, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): PC motion number 27 is defeated.

We've dealt with the amendments to schedule 2, section 3 that were proposed by the various parties. There have been no amendments carried. Is there any further discussion on schedule 2, section 3? There being none, I shall call for the vote. Shall schedule 2, section 3, carry?

Ayes

Colle, Dickson, Forster, Kiwala, McMahon.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 3 is carried.

We have a new schedule proposed by the NDP. It would be NDP motion number 29. Ms. Forster.

Ms. Cindy Forster: I move that schedule 2 of the bill be amended by adding the following section:

"3.1 The act is amended by adding the following section:

“New tobacco products

“Prohibition

“6.2(1) No person shall sell or offer to sell a tobacco product at retail or for subsequent sale at retail, or distribute or offer to distribute it for that purpose, unless the product was lawfully so sold, offered for sale or distributed in Ontario before January 1, 2016.

“Exception

“(2) Subsection (1) does not apply to a brand of a tobacco product sold or offered for sale at retail or for subsequent sale at retail, or distributed or offered for distribution for that purpose, for the first time in Ontario on or after January 1, 2016 if another brand of the same tobacco product was lawfully so sold or distributed, or offered for sale or distribution, in Ontario before that date.”

The Chair (Mr. Grant Crack): I'll make a few comments with regard to this motion. Amendment 29, which is a new section 6.2 of the Smoke-Free Ontario Act, seeks to prohibit the sale of any new tobacco product. Schedule 2 of Bill 45, which amends the Smoke-Free Ontario Act, does set out new prohibitions with respect to the sale of tobacco, but these are limited to promotional items and the sale of flavoured tobacco products.

To extend the prohibition to include all new tobacco products would seem to me to exceed the scope of the bill or the reasonable limits of its collective purpose, as set out by its existing clauses and schedules. I therefore rule the amendment out of order.

There are new sections proposed, 3.1 and 3.2, by the NDP. It's NDP motion number 30. Ms. Forster.

Mr. Mike Colle: So 29 is ruled out of order?

The Chair (Mr. Grant Crack): Out of order.

Mr. Mike Colle: NDP motion 29—

The Chair (Mr. Grant Crack): —is out of order.

Ms. Forster.

Ms. Cindy Forster: I move that schedule 2 to the bill be amended by adding the following sections:

“3.1 The heading immediately before section 9 of the act is repealed and the following substituted:

“Controls relating to smoking

“3.2(1) Subsection 9(1) of the act is repealed and the following substituted:

“Prohibitions

“9(1) No person shall do the following in an enclosed public place or enclosed workplace:

“1. Smoke tobacco or hold lighted tobacco.

“2. Using a waterpipe to smoke tobacco or non-tobacco substances.

“Definition

“(2) In this section,

““non-tobacco substances” includes herbs” and “herbal substances;

““waterpipe” means any lighted or heated smoking equipment used to burn tobacco or non-tobacco substances or any combination thereof and draw the resulting smoke through a liquid before it is inhaled; ... ”

The Chair (Mr. Grant Crack): I believe, just under the definitions, you wanted to say, “includes herbs or herbal substances,” not “herbs and herbal substances.” I just want to make that clarification.

Ms. Cindy Forster: Clarified.

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

The amendment that you’re proposing, Ms. Forster, seeks to amend a section of the bill that’s not open in Bill 45. It’s therefore beyond the scope of the bill, so I must rule it out of order.

Okay, moving on, we have schedule 2, sections 4 and 5, and sections 6, 7, 8, 9 and section 10. Does the committee wish to lump schedule 2, sections 4 through 10 inclusively?

Mr. Bill Walker: No.

The Chair (Mr. Grant Crack): I heard a no. We shall do them individually.

There are no amendments to schedule 2, section 4. Shall schedule 2, section 4, carry?

Ayes

Colle, Dickson, Forster, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 4 is carried.

We’ll move to schedule 2, section 5. Before I call for the vote, is there any discussion? There being none, schedule 2, section 5: Shall schedule 2, section 5, carry?

Ayes

Colle, Dickson, Forster, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 5, is carried.

We shall move to schedule 2, section 6. Any further discussion on that schedule and section? There being none, shall schedule 2, section 6, carry?

Ayes

Colle, Dickson, Forster, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 6, is carried.

We shall move to schedule 2, section 7. Any discussion on schedule 2, section 7? There being none, shall schedule 2, section 7, carry?

Ayes

Colle, Dickson, Forster, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 7, is carried.

We shall move to schedule 2, section 8. Any further discussion? There being none, shall schedule 2, section 8, carry?

Ayes

Colle, Dickson, Forster, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 8, is carried.

We shall move to schedule 2, section 9. Any discussion? There being none, shall schedule 2, section 9, carry?

1730

Ayes

Colle, Dickson, Forster, Kiwala, McDonell, McMahon, Vernile, Walker.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 9, is carried.

We shall move to schedule 2, section 10. Any further discussion? There being none—

Mr. Bill Walker: Mr. Chair, could I just—

The Chair (Mr. Grant Crack): Mr. Walker.

Mr. Bill Walker: One point of clarification I had on, I believe, section 10, subsection 2, section 7, “a prescribed place or area.” At one point, I had a discussion with some of the staff, and I was talking about things—it’s more of “a workplace,” but it might fall under this as well, so I’m just asking for some clarification.

Someone like a crane operator, who is 250 metres or 300 metres in the air—that might be the only place—and

this is to vaping. My concern was that might be a place where a person wants to do that. But if we just call it a “prescribed area” or “a workplace,” that person would be prohibited from having an e-cigarette there.

There are people like Purolator courier drivers who are in an enclosed vehicle by themselves all day long, and I just want to make sure, for clarity—and I believe we can probably work this out in regulation, but we don’t always get the opportunity to be part of that regulation discussion.

I just want to put on the record that those are the types of things where we’ve had people coming to us, saying, “This is my work area. It is solely confined to me. If they’re e-cigarettes and they’re not going to be illegal, why can’t I have them in those types of places?” I just used those two as an example.

The Chair (Mr. Grant Crack): Mr. Walker, for clarification purposes, would you be so kind as to tell us what you’re referring to? Which schedule? Which section?

Mr. Bill Walker: Unless I’m on the wrong page, it’s “Prohibition,” section 10.

Interjections.

Mr. Bill Walker: Not section 10? That’s number 10.

The Chair (Mr. Grant Crack): Is that schedule 3?

Mr. Bill Walker: Sorry. My apologies; I’m ahead of myself. That’s why I didn’t want to do these all as one because I wanted to make sure I could go through them. But you are correct. Just disregard my whole last little verbage there, Mr. Chair. I do apologize.

The Chair (Mr. Grant Crack): It’s very difficult to disregard it because it’s in the record, but we thank you for sharing that.

Mr. Bill Walker: I’d be happy to put a motion to disregard and strike that from the record if everyone would unanimously agree.

The Chair (Mr. Grant Crack): It’s fine. Mr. Hillier.

Mr. Randy Hillier: But I think clause 8—maybe that’s what you were referring to.

The Chair (Mr. Grant Crack): We’re on schedule 2, section 10.

Mr. Randy Hillier: No, we’re on 9—

The Chair (Mr. Grant Crack): That’s already been voted on. We’re dealing with schedule 2, section 10, which is the proclamation date. That’s what we’re discussing now. Ms. Forster.

Ms. Cindy Forster: You could clarify your record and say that you want to be on the record to have it applied to section 9, subsection 8.

Mr. Bill Walker: Correct. Thank you very much. That’s exactly what I was trying to say. It’s just been a long day, Mr. Chair.

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

We’re on schedule 2, section 10. Any discussion on schedule 2, section 10, which is the proclamation date?

Mr. Randy Hillier: Yes.

The Chair (Mr. Grant Crack): Mr. Hillier.

Mr. Randy Hillier: We saw in the earlier schedule that there was a date defined, and I spoke to that clause. There were a lot of things that were being left to be developed by ministry administrators and officials, but they came up with a set-in-stone date for proclamation of January 1, 2017. I’m just going to ask the committee members if there is a view of how long it will take before schedule 2 gets proclaimed and if there have been discussions about the length of time to develop those regulations affecting schedule 2.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: I’m just wondering, because we did put a date in one part—I don’t know how at the end you do not have a consistent date right through it of 2017. If you’re going to put a section that has to be acclaimed, I don’t know how the overall section can be missed and not the same date lined up right through.

The Chair (Mr. Grant Crack): There are different components of the particular piece of legislation, Bill 45. It appears that there are certain sections that will come into effect at different times. There has been an amendment of up to January 1, 2017, which was passed by the committee. You are more than entitled to have some discussion with regard to this particular proclamation method and/or date, and that’s what we’re here for.

Any further discussion? Mr. Hillier.

Mr. Randy Hillier: I thought I was just being fairly clear, asking a fairly simple question: How long do we expect the regulations to take to be developed for schedule 2? It’s not just for my own curiosity, but for all those businesses and people who are going to be impacted.

We are talking about flavours in tobacco. We know there are a great many businesses both involved in the retail and manufacturing, the wholesale and distribution of these things, and I think it’s important that we have some sort of indication from the Liberal members on this committee what that period of time is going to be. Are these people going to be impacted, with their businesses, next week, next month, a year from now or two years from now? This will be a substantial disruption to many businesses. We’ve heard that from the convenience store people. We heard it from a host of different presenters to the committee.

I would just encourage and ask—again, have that consideration. Has there been any discussion by the Liberal members with the ministry about how long it will take to develop the regulations and to have some idea when this schedule will actually be proclaimed into law?

The Chair (Mr. Grant Crack): Any further discussion? Mr. Walker?

Mr. Bill Walker: Chair, may I call for a 20-minute recess?

The Chair (Mr. Grant Crack): Well, yes, you’re entitled to call, but is there any further discussion?

Mr. Jim McDonell: I just want to clarify one thing here. I think Mr. Hillier was right. Sometimes there’s a sizable inventory. If you don’t give a suitable amount of time—it’s my understanding that when these raw products are bought, the tax is paid, so the only way they

can get rid of them is to sell them off to contraband suppliers. I just think that when the legislation is put into force, there should be a date set, so that these retailers can have some time to plan their future, because other than selling them illegally, they can't sell them once the date is proclaimed.

The Chair (Mr. Grant Crack): Any further discussion?

It is in order to request a 20-minute recess prior to a vote. There has been a request prior to the vote.

Ms. Vernile?

Ms. Daiene Vernile: Mr. Chair, just keeping an eye on the clock, if we take a 20-minute recess, that'll put us back with two minutes.

The Chair (Mr. Grant Crack): The request is in order. We are required to sit till 6 p.m. The 20-minute request has been asked for. I will allow that to happen if that's—I can't think of the word.

So there is a 20-minute recess prior to the vote. When we come back, we'll be voting on schedule 2, section 10.

The committee recessed from 1739 to 1759.

The Chair (Mr. Grant Crack): Okay, I'd like to call the meeting back to order.

Mr. Randy Hillier: No quorum.

The Chair (Mr. Grant Crack): Thank you for the input from the gallery. I appreciate that. There is no quorum, Madam Clerk, so I believe that—

Interjection.

The Chair (Mr. Grant Crack): Do you want me to clarify that, then—that I'm not allowed to bring that to your attention? Perhaps if someone—

Mr. Mike Colle: Yes, let's proceed. I move unanimous consent that we move the rest of Bill 45 without amendment—unanimous consent to move the remainder

of Bill 45 without amendment and report the bill to the House.

Mr. Randy Hillier: Now we have a quorum.

The Chair (Mr. Grant Crack): Okay. We have a quorum.

Ms. Vernile.

Ms. Daiene Vernile: I move that we pass, as amended, Bill 45—

The Chair (Mr. Grant Crack): No. No, we can't.

We have a motion on the floor. The 20-minute recess took place, so I'm going to call the question right now. Shall schedule 2, section 10, carry?

Ayes

Colle, Forster, Kiwala, McMahon, Vernile.

The Chair (Mr. Grant Crack): None opposed. Schedule 2, section 10, is carried.

Now it's schedule 2 in its entirety. It's 6 o'clock, so we will deal with schedule 2 when we return.

Mr. Mike Colle: What about my motion for unanimous consent?

The Chair (Mr. Grant Crack): Unanimous consent is not allowed following a 20-minute recess. We have to deal with the motion that was on the table prior to the recess.

Mr. Mike Colle: But with unanimous consent, the committee can do anything.

The Chair (Mr. Grant Crack): But when there's a motion on the table, that takes precedence.

This meeting is adjourned.

The committee adjourned at 1801.

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