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**Official Report  
of Debates  
(Hansard)**

**Wednesday 29 April 2015**

**Journal  
des débats  
(Hansard)**

**Mercredi 29 avril 2015**

**Standing Committee on  
General Government**

Making Healthier Choices  
Act, 2015

**Comité permanent des  
affaires gouvernementales**

Loi de 2015 pour des choix  
plus sains

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 29 April 2015

Mercredi 29 avril 2015

*The committee met at 1600 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 pour des choix santé dans les menus et de la Loi de 2015 sur les cigarettes électroniques et la modification de la Loi favorisant un Ontario sans fumée.

**The Chair (Mr. Grant Crack):** Good afternoon, everyone. I'd like to call the meeting to order. This is the Standing Committee on General Government. We're here to continue with clause-by-clause on 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. Welcome all members, the Clerks' office, Hansard and legislative counsel.

At the end of the last meeting we were on schedule 2. I would also like to make a point that there had been a request previously that all motions be dealt with by recorded vote. I'm not sure if that still stands. Is there a request, Mr. Colle?

**Mr. Mike Colle:** Yes.

**The Chair (Mr. Grant Crack):** Mr. Colle is requesting that we continue along the process with recorded votes on each motion.

So we shall continue with schedule 2. Shall schedule 2 carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** Those opposed? Schedule 2 is carried.

We shall move to schedule 3. There is a PC amendment number 31 to schedule 3, subsection 1(1). Mr. Hillier?

**Mr. Randy Hillier:** I move that subsection 1(1) of schedule 3 to the bill be amended by striking out the

definitions of "commercial," "employee," "employer," "enclosed public place," "enclosed workplace," "minister," "prescribed," "promote," "regulations" and "use."

**The Chair (Mr. Grant Crack):** Okay. Thank you very much. Mr. Hillier has moved the motion. Further discussion? Mr. Hillier.

**Mr. Randy Hillier:** Thank you, Chair. I would like to just inform the committee that here is a presentation that wasn't made to this committee but was intended to be. It was done by Jacques Huot. He's the former chair of Anishnawbe Health Toronto. I'd like to just quote a little bit from his presentation for the members of this committee. He says:

"I respectfully urge you in the strongest possible terms to consider that harm reduction is the best course of action. By unduly regulating this market segment or by allowing big tobacco to foist their products on the people of Ontario through a misguided Bill 45, your government will kill the most promising alternative for people wanting a choice for a healthier future and a reduction in the financial burden caused by cigarettes.

"I would like to open with comments on the legislation before you. While the authors and proponents of Bill 45 are quick to state there is no ban of e-cigs in this legislation," many "of its clauses are so restrictive as to effectively do so."

I'll table this report with the committee afterwards.

"In conclusion, the disadvantaged population groups of our province and the economic stress on our health care system are being ignored in this debate in the context of this disruptive yet life-saving technology. Once again, as it did for gay rights, Ontario can be at the forefront of understanding that the science is definitive. The human beings in these groups deserve a chance to make a choice and to have a choice to make.

"Therefore, I respectfully urge you in the strongest terms possible to consider," as the Anishnawbe health team has, "that harm reduction is the best possible course of action. By unduly regulating this market segment your legislation will hinder, if not kill, the most promising alternative for people wanting a choice for a healthier future and a reduction of the financial burden caused by cigarettes.

"I urge you to work with the Electronic Cigarette Trade Association and the Tobacco Harm Reduction Association of Canada and the world recognized scholars and scientists that they can bring to the table to deliver a balanced, world-leading vaping legislation.

“Meegwetch.”

I'd like to table that with the committee Clerk. There is some interesting information in it.

Just further on that, we have recognized that harm reduction is a goal that we want to achieve. We've used harm reduction as a policy, whether it's providing condoms to prevent the spread of STDs, whether it's the methadone clinics for heroin users, or whether it's the Insite clinic that was approved and recognized by the Supreme Court of Canada. Harm reduction ought to be our goal. It needs to be our goal. This bill does away with harm reduction.

As we've heard from many deputants—very compelling personal stories, like Marion Burt, and very strong scientific and academic studies, such as Dr. John Britton from ASH in the UK—the biggest threat to big tobacco is electronic cigarettes, vaporizers. I find it disturbing that the government is proposing a bill that would promote and protect the big tobacco interests and not take on the harm reduction strategy.

At the outset, this government has stated on many occasions that they will create policy and laws based on science and evidence. I've called them to task on that in the House. We've heard from the committee members here in this room that when there is not science or evidence to back up their assertions, then they rely on the precautionary principle instead of science. But I'd like to just read something into the record about this inconsistency:

“Strong formulations of the precautionary principle, without regard to its most basic provisions that it is to be applied only where risks are potentially high and not easily calculable, applied to the principle itself as a policy decision, may rule out its own use. The reason suggested is that preventing innovation from coming to market means that only current technology may be used, and current technology itself may cause harm or leave needs unmet; there is a risk of causing harm by blocking innovation. As Michael Crichton wrote in his novel, *State of Fear*: ‘The precautionary principle, properly applied, forbids the use of the precautionary principle.’ For example, forbidding nuclear power plants based on concerns about risk means continuing to rely on power plants that burn fossil fuels, which release greenhouse gases.”

You can't have it both ways: the precautionary principle and science and evidence.

I'm going to present further documentation to the committee from some very outstanding people who wanted to make delegations to this committee, but in our haste and not allowing everybody their opportunity, many did not make their presentation. Another one that I'll be referring to today is from David Sweanor, adjunct professor of law at the University of Ottawa and special lecturer in epidemiology and public health at the University of Nottingham.

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He is probably the most successful litigator against big tobacco. He has brought in and has been successful in the courts against big tobacco. He was in to see me and was

aghast that this government would be bringing in schedule 3 of Bill 45. I'll reference some of his comments later on.

I do want to reiterate once again that we are not protecting people with schedule 3 of Bill 45; we are protecting big tobacco and we're protecting big pharma. The most effective technology so far developed to help people kick their smoking addiction is the vaporizer, which will be banned in Bill 45. We are going to condemn tens of thousands of people to stay addicted to tobacco on false, moralistic grounds that have no science or evidence to back it up. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Hillier. Any further discussion? Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I would say that there are bits and pieces of what my colleague just shared that I would agree with, the first one being that it is rather regrettable that we did not have time to listen to everybody who wanted to come and make deputations to this Legislature, really. It is hard for people to get involved with the legislative process, and when individuals who have never done this before reach out to us, it is a real shame that we don't take the time to listen to what they have to say. It doesn't matter if we have heard it before; it doesn't matter if other presenters have done the same—they are allowed to come and be heard. This is how democracy works.

I support the fact that my colleague is bringing into the record deputations that never had a chance to be heard. I don't think clause-by-clause is the place to do that, but then how would he, when the opportunity was taken away from a lot of people who would have engaged with the Legislature for the first time in their lives and become part of what we're so proud of, which is a democracy?

The second part is that we heard very much anecdotal evidence, and in my book, that never makes science. It doesn't matter how much anecdotal evidence we have; I don't think that it will ever take the place of science. But we have some pretty robust research programs in place right now that will be able to inform us as to how effective vaporizers or e-cigarettes are at helping people quit. We have to make absolutely sure that we don't have to come back to this Legislature if it turns out that these new e-cigarettes would be good smoking-cessation aids.

So there are some worries, and here again, they are based on time. You have seen, by some of the amendments that I have brought forward, that I had a really tough time meeting the deadlines that were imposed upon us, and that some of the amendments that I brought forward I later had to retract and resubmit because we just couldn't make this 16-hour deadline. This is not the way democracy should work. We should not have to table our amendments not even 16 hours after we've heard the last deputation. This is not reasonable. Lawyers write those things for us. The lawyer I was working with was very diligent, accessible, and she tried her best, but the timeline was really, really tough to maintain. This leaves me with this really uneasy feeling that if we had had just a bit more time—make it on Monday; I was not

asking for months of delay. I've been waiting a long time for some of the pieces in that bill to come through. Far be it for me to slow this thing down, but really, to give us to the Monday rather than the Thursday—like Friday all day and amendments on Monday—would have made a whole lot of difference.

All this is to say that the science is not there yet, but we are about to learn. There are two research projects funded by the Ministry of Health right now that will bring us very close to being able to say that there is value and there is a body of scientific evidence to support all of the anecdotal claims that we have brought forward. Let's make sure that this legislation allows us to use the scientific evidence as soon as it becomes available, which should be before the end of this year. Thank you.

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

**Mr. Randy Hillier:** Thank you, France. We heard anecdotal evidence, such as from Marion Burt, somebody who had smoked for 40 years and tried every conceivable prescription and other mechanism to quit smoking. The only thing that she found successful was the vaporizer. She's been off cigarettes for a year now. That's anecdotal. But we also heard from Dr. John Britton from the United Kingdom Centre for Tobacco and Alcohol Studies. He testified at the House of Commons, but it's essentially the same thing that he said by phone call from the UK to this committee. He stated:

"We have found that ... a couple of million of our smokers in the UK are now occasional or regular users of electronic cigarettes and about 700,000 are now exclusive users" of vaporizers. "Seven hundred thousand people quitting smoking by swapping to an alternative source over the course of ... four years is more than our National Health Service smoking cessation services have achieved in over a decade."

That's not anecdotal; that's evidence. Vaporizers work. They help people stop smoking. Why this government wants people to continue smoking under a precautionary principle is astonishing.

Also, in that same testimony, to talk about the anecdotal: A University of Ottawa professor of medicine, Mark Tyndall, calls e-cigarettes the "ultimate harm reduction intervention."

McGill University's Dr. Gaston Ostiguy writes on behalf of a group of doctors, professors and health advocates to support age restrictions and manufacturing standards, but warns against any excessive regulations that could make it difficult to communicate about the reduced risk of these products, or access to them.

I don't know if the members on this committee are aware, but I would say this Bill 45, schedule 3, is demonizing the vaporizer. You're using hyperbole and rhetoric to demonize something that has been demonstrated to be helpful and effective for people who are addicted to nicotine. Up until this, the only effective way to satisfy their nicotine addiction was by smoking cigarettes.

I'll just finish off here by saying that noted anti-smoking activist David Sweanor, who again—I'll share

his presentation that he could not provide; he was not afforded the opportunity. He says that we need to "focus on opportunities" of products like e-cigarettes, "rather than merely focus on potential and theoretical risks, as technology delivers products that can replace cigarettes." **1620**

Sweanor has also been critical of the moral absolutism of those who advocate an abstinence-only approach to nicotine as opposed to the one focused on harm reduction. I think that really puts it in a nutshell, this moral absolutism of abstinence only, not harm reduction. If the Liberal government members used that same approach for STDs, condoms would not be available in this province, because a condom may break; it is not 100% absolute certain. But of course, we know from all the evidence that wearing condoms prevents or limits STD transmission.

Why we can't use that same principle to help smokers kick their habit and save our health care system and save those lives—14,000 people a year in this province die from smoking. It appears, with Bill 45, schedule 3, that that is an acceptable mortality rate in this province.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Hillier. Any further discussion? There being none, Mr. Hillier has moved PC motion number 31.

#### Ayes

Hillier, Walker.

#### Nays

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion 31 is defeated.

We shall move to PC motion number 32, which is an amendment to schedule 3, subsection 1(2). Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 1(2) of schedule 3 to the bill be struck out.

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

**Mr. Randy Hillier:** I'm going to read into the record some small component of David Sweanor's testimony that he was not permitted to provide to this committee:

"Through my career I have worked with major bodies such as the World Health Organization, World Bank and numerous regional and national bodies. I have testified before numerous legislative bodies across Canada, in both Houses of the US Congress and before legislative bodies in many other countries around the world. It is with much dismay that I learned that this committee, in my lifelong home province, did not see fit to hear from me in person despite my requests to testify on Bill 45. This rejection happened without explanation and despite my high profile on issues of e-cigarettes specifically, and tobacco and health policies in general."

Again, I'll reference: He's the adjunct professor of law at the University of Ottawa and special lecturer in

epidemiology and public health at the University of Nottingham.

“Why [e-cigarette products] are important: Cigarette smoking is still, by far, our largest cause of preventable death, resulting in the deaths of approximately 14,000 Ontarians annually. While we have done much to motivate smokers to want to quit, we have done much too little to facilitate the behaviour change. The vast majority of cigarette smokers in Ontario evince a desire to quit smoking but our success rate in turning a ... smoker into an ex-smoker is frankly, dismal.

“This is largely due to the fact that we have not addressed the product itself. We have dealt with almost everything about a cigarette, such as where it can be sold and used, the price, the packaging, the promotion, etc. but have done virtually nothing to deal with the actual product. This is out of keeping with public health initiatives on other unsafe products....

“The public health tragedy of the 14,000 Ontario deaths per year is not from the nicotine they seek, but from the extraordinarily deadly way they get it. This point on relative risks, and the role for electronic cigarettes, has been made very forcefully in recent weeks by Dr. Derek Yach, the former head of tobacco control at the World Health Organization.”

**The Chair (Mr. Grant Crack):** Mr. Hillier, if I may, the amendment that you’re proposing is to subsection 1(2), which deals with enclosed workplaces, so perhaps you could bring your remarks into that particular one. You’re free, at the end, when we discuss the entire section, to make any remarks that you feel should be made in general.

**Mr. Randy Hillier:** Yes. This will address that.

“What we need in Ontario is fit-for-purpose regulation rather than trying to graft alternatives to combustibles.... The legislation needs to be aimed at giving smokers the best alternatives to smoking, to spurring innovation, and to be able to adapt quickly to a rapidly changing environment. We want to make healthy choices easier, rather than more difficult, to make. The importance, and relative ease, of fit-for-purpose regulation was made by Clive Bates,” head of ASH UK, “in a submission to our federal Standing Committee on Health last autumn.

“Rather than import the sort of moralistic approach to drugs that we see in our southern neighbours, we should look to our science-informed and pragmatic contemporaries in the United Kingdom. To put it another way, go with the country still represented on our provincial flag rather than the one our ancestors left and thereby established this province.”

He goes on to urge everyone to consider these views—and that these are opposed and are counter-productive in Bill 45.

I’m going to leave Mr. Sweanor’s deputation that was not presented. I do hope the committee members take the opportunity to read through it. We saw that very little compelling evidence and science had any effect, but I’m going to continue to try—that there would be some effect on the Liberal government not to subject smokers and

prevent them from having an opportunity to quit smoking.

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

**Mr. Bill Walker:** I just want to make sure we put on the record that I was approached by some deputations privately, asking me for consideration. I did meet with staff and shared this with them: that there may be some inadvertent situations where people in a workplace—for example, a courier company driver who is alone in a vehicle for an extended period of time; long-haul truckers who are alone in their vehicle, their workplace, for long periods of time; construction crane-work operators who are 300 feet in the air by themselves with no one else that they’re going to hinder—that those could be considered as exemptions as part of the regulation process so that we’re not inadvertently encouraging them to go back to smoking regular tobacco when they could be having e-vapor, which is a cessation-potential product.

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

**Mr. Randy Hillier:** I’m going to leave that to be tabled. I also want to table this. This is a note that I received from Dr. Noe Zamel. He’s one of the leading respiratory physicians in the world. He lives here in Toronto. This note is from him, and the picture is important for the committee to see. Here’s a picture of a Vicks vaporizer. Under Bill 45, schedule 3, this would be banned in the province of Ontario. Anything that uses a battery for inhalation will be deemed an electronic cigarette and banned out of pharmacies as well as many public places. Vicks vaporizers are caught in your Bill 45, schedule 3, and any other new technology for respiratory illnesses that requires a battery and inhalation will also be unlawful.

**The Chair (Mr. Grant Crack):** Any further comments? There being none, I shall call the vote on PC motion number 32.

#### Ayes

Hillier, Walker.

#### Nays

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion number 32 is defeated.

We shall move to schedule 3, section 1, but prior to doing that, I just wanted to remind Mr. Hillier that all members of the committee have previously received the correspondence that you are tabling with the Clerk.

**Mr. Randy Hillier:** Not from Dr. Noe—

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**The Chair (Mr. Grant Crack):** Perhaps not this one, but the ones previously. We’re more than happy to take that and file it again with the Clerk, but all members—just to prevent the Clerk from having to go and have them photocopied again.

**Mr. Randy Hillier:** It's not necessary to get it done right away.

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

We shall move to schedule 3, section 1. Further discussion on the section? There being none, shall schedule 3, section 1, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

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

We shall move to schedule 3, section 2. There are no amendments. Is there any discussion on schedule 3, section 2? There being none, shall schedule 3, section 2, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 2, is carried.

We shall move to schedule 3, section 3, PC motion 33, which is an amendment to schedule 3, section 1, proposing a new subsection 3(5). Mr. Hillier.

**Mr. Randy Hillier:** I move that section 3 of schedule 3 to the bill be amended by adding the following subsection:

“Exception

“(5) Subsections (1) and (2) do not apply to a place if both of the following circumstances exist:

“1. The primary use, or one of the primary uses, of the place is to allow individuals to use electronic cigarettes.

“2. Individuals who are less than 19 years old are not ordinarily permitted to enter the place.”

**The Chair (Mr. Grant Crack):** Further discussion? There being none, I shall call the question. Shall PC motion number 33 carry?

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion number 33 is defeated.

We shall move to PC motion 34, which is an amendment to schedule 3, section 1, which proposes a new subsection 3(5). Mr. Hillier.

**Mr. Randy Hillier:** I move that section 3 of schedule 3 to the bill be amended by adding the following subsection:

“Exception, minors not permitted to enter

“(5) Subsections (1) and (2) do not apply to a place if, at the relevant time, individuals who are less than 19 years old are not permitted to enter the place.”

**The Chair (Mr. Grant Crack):** Further discussion? There being none, I shall call the question on PC motion 34.

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion 34 is defeated.

We shall move to PC motion number 35, which is an amendment to schedule 3, section 1, proposing a new subsection 3(6). Mr. Hillier.

**Mr. Randy Hillier:** I move that section 3 of schedule 3 to the bill be amended by adding the following subsection:

“Exception

“(6) Subsections (1) and (2) do not apply to a place if both of the following circumstances exist:

“1. The primary use, or one of the primary uses, of the place is to sell or supply electronic cigarettes.

“2. Individuals who are less than 19 years old are not ordinarily permitted to enter the place.”

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

**Ms. Ann Hoggarth:** I'm just inquiring: There is no subsection 5, so isn't this out of order, since it's subsection 6 and we do not have a subsection 5?

**The Chair (Mr. Grant Crack):** As Chair, if I could refer it to legislative counsel? Mr. Chamney.

**Mr. Eric Chamney:** It's not out of order. If this motion passes, it will be renumbered editorially to be subsection 5.

**Ms. Ann Hoggarth:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you, legislative counsel. Any further discussion? There being none, I shall call the question. Shall PC motion number 35 carry?

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion number 35 is defeated.

We shall move to schedule 3, section 3. Is there any further discussion on the entire schedule and section? There being none, shall schedule 3, section 3, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

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

We shall move to schedule 3, section 4. Is there any discussion on schedule 3, section 4? There being none, shall schedule 3, section 4, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 4, is carried.

We shall move to schedule 3, section 5. It's PC motion number 35, which amends schedule 3, section 5, subsection 5(1). Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 5(1) of schedule 3 to the bill be struck out and the following substituted—

**Mr. Mike Colle:** Point of order: I think it's the wrong number.

**The Chair (Mr. Grant Crack):** We're on number 36.  
*Interjections.*

**Mr. Mike Colle:** Number 36. He said 35.

**The Chair (Mr. Grant Crack):** I said 35?

**Interjection:** Yes.

**The Chair (Mr. Grant Crack):** The Chair made an error. I apologize.

**Mr. Randy Hillier:** I find that hard to believe.

**The Chair (Mr. Grant Crack):** It is hard to believe, yes.

**Mr. Bill Walker:** We can make an opportunity to correct your record, Mr. Chair.

**The Chair (Mr. Grant Crack):** I shall correct my record. PC motion 36: Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 5(1) of schedule 3 to the bill be struck out and the following substituted:

“Sale in prohibited places

“5(1) No person shall sell or offer to sell electronic cigarettes in the following places:

“1. A hospital as defined in the Public Hospitals Act.

“2. A private hospital as defined in the Private Hospitals Act.

“3. A psychiatry facility as defined in the Mental Health Act.”

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

**Mr. Randy Hillier:** I'll just add that this is consistent with not preventing pharmacies from being able to sell new, innovative means of respiratory inhalants.

**The Chair (Mr. Grant Crack):** Thank you. Any further discussion? I shall call the question on PC motion—oh, sorry, Madame Gélinas. I did not see your hand.

**M<sup>me</sup> France Gélinas:** But you also captured the long-term-care homes.

**Mr. Randy Hillier:** Pardon?

**M<sup>me</sup> France Gélinas:** In your amendment, you're striking out long-term-care homes.

**Mr. Randy Hillier:** Yes.

**M<sup>me</sup> France Gélinas:** Those are not pharmacies.

**Mr. Randy Hillier:** No, but often we'll see some sort of pharmacology on site.

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

**The Chair (Mr. Grant Crack):** Further discussion? There being none, I shall call the question on PC motion number 36.

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion 36 is defeated.

We shall move to PC motion 37, which is an amendment to schedule 3, section 5, subsection 5(3). Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 5(3) of schedule 3 to the bill be struck out.

**The Chair (Mr. Grant Crack):** Thank you. Further discussion? There being none, I shall call the question. Shall PC motion 37 carry?

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.



**The Chair (Mr. Grant Crack):** PC motion 37 is defeated.

We shall move to schedule 3, section 5. Any discussion? There being none, shall schedule 3, section 5 carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 5, is carried.

We shall move to schedule 3, section 6. Any discussion on schedule 3, section 6? Mr. Anderson.

**Mr. Granville Anderson:** Can we not do these as a block, sections 6 through to 9?

**The Chair (Mr. Grant Crack):** If that is something that the committee is comfortable with.

**Mr. Randy Hillier:** What was that?

**The Chair (Mr. Grant Crack):** To lump schedule 3—

**Mr. Randy Hillier:** No, no. We'll just go with individuals.

**The Chair (Mr. Grant Crack):** There has been a denial of that request, so we'll continue.

Any further discussion on schedule 3, section 6? There being none, shall schedule 3, section 6, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 6, is carried.

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We shall move to schedule 3, section 7. Any further discussion? Then I shall call the question. Shall schedule 3, section 7, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 7, is carried.

We shall move to schedule 3, section 8. Any further discussion? There being none, shall schedule 3, section 8, carry?

**Ayes**

Anderson, Colle, Dickson, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 8, is carried.

We shall move to schedule 3, section 9. There are no amendments. Any discussion? There being none, shall schedule 3, section 9, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 9, is carried.

We shall move to schedule 3, section 10. We have PC motion 38, which is an amendment to schedule 3, section 1, which proposes a new subsection 10(7.1). Mr. Hillier.

**Mr. Randy Hillier:** I move that section 10 of schedule 3 to the bill be amended by adding the following subsection:

“Exception

“(7.1) The following rules apply if a proprietor of an enclosed public place permits the use of electronic cigarettes in the enclosed public place:

“1. Subsection (1) does not apply to a person who uses an electronic cigarette in the enclosed public place.

“2. Subsection (6) does not apply to the proprietor in connection with the enclosed public place.”

**The Chair (Mr. Grant Crack):** Further discussion? There being none, I shall call the question on PC motion 38.

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion number 38 is defeated.

We shall move to PC motion number 39, which is an amendment to schedule 3, section 1, proposing a new subsection 10(7.2). Mr. Hillier.

**Mr. Randy Hillier:** I move that section 10 of schedule 3 to the bill be amended by adding the following subsection:

“Exception

“(7.2) The following rules apply if an employer who exercises control over an enclosed workplace permits the use of electronic cigarettes in the enclosed workplace:

“1. Subsection (1) does not apply to a person who uses an electronic cigarette in the enclosed workplace.

“2. Subsection (3) does not apply to the employer in connection with the enclosed workplace.

“3. The employer shall accommodate the work or the workplace for employees who do not use electronic cigarettes.”

**The Chair (Mr. Grant Crack):** Further discussion? There being none, I shall call the question. Shall PC motion 39 carry?

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion 39 is defeated.

We shall move to schedule 3, section 10, in its entirety. Any further discussion? There being none, shall schedule 3, section 10, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 10, is carried.

We shall move to schedule 3, section 11. Any further discussion? There being none, shall schedule 3, section 11, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 11, is carried.

We shall move to schedule 3, section 12. Any discussion on schedule 3, section 12? There being none, shall schedule 3, section 12, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** Schedule 3, section 12, is carried.

We shall move to schedule 3, section 13. Any discussion? There being none, shall schedule 3, section 13, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 13, is carried.

We shall move to schedule 3, section 14. Any discussion on the section and schedule? There being none, shall schedule 3, section 14, carry?

**Ayes**

Anderson, Colle, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 14, is carried.

We shall move to schedule 3, section 15.

We have PC motion number 40, which is an amendment to schedule 3, section 15, subsection 15(1), clauses 15(1)(b), (c), (d), (e) and (f).

Mr. Hillier.

**Mr. Randy Hillier:** I move that clauses 15(1)(b), (c), (d), (e) and (f) of schedule 3 to the bill be struck out.

**The Chair (Mr. Grant Crack):** Any further discussion on the motion? Mr. Hillier.

**Mr. Randy Hillier:** Chair, it's clear that the Liberal government is bent on a crusade to keep people smoking in this province, and that there is little compassion or interest in helping people to quit smoking.

As I said, that device—it's not anecdotal—the evidence is overwhelming. The evidence is also overwhelming about this false fear as a gateway to smoking. It has been discounted by everybody. It was also mentioned in the committee by Dr. John Britton that that is a fallacy that it is a gateway out of smoking.

We have the Baptists and the bootleggers in an unholy alliance here—the moralists and big tobacco and big pharma in an unholy alliance to protect their market shares, to protect their profits. This Liberal government is facilitating that unholy alliance. They're going to use legislation to ensure that big tobacco continues to make

big money; to ensure that big pharma continues to make big money; and to ensure that smokers remain addicted to cigarettes.

I find it absolutely horrendous, and I don't know how any member of the Liberal Party could be so willing to condemn so many to an unhealthy lifestyle and an atrocious, unhealthy addiction to tobacco smoking.

I know how powerful that addiction is. I'm sure many others know how powerful that addiction is. We know that it is not the nicotine that is harmful to people. We know it is the combustion, the tar and those particulates that are the cause of cancer, emphysema and so many other debilitating and fatal diseases.

The committee members are silent—they're mute—on why they are engaged in this unholy alliance between the bootleggers and the Baptists.

You'll wake up one day—wake up—and find out that you have condemned many, many people to remain addicted to tobacco. It's not compassionate. It's not caring. It's not thoughtful; it's hurtful. Why you would promote harm reduction strategies for so many other addictions and so many other behaviours but you won't allow for harm reduction in the tobacco business—is it your desire and the need for the revenues from tobacco? We know that they're over \$1 billion a year in this province. We also know that direct health care costs because of tobacco addictions in this province are about \$1.6 billion a year, and another \$4 billion a year in lost productivity.

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We could be doing so much to help the health and the life of so many Ontarians, as well as adding to our economy, as well as reducing the cost of health care, but instead, you would rather protect big tobacco and big pharma and keep people hooked on tobacco.

This is not something that will go unnoticed. I know many of you have already been hearing the outcry from those people who have successfully quit their addiction using vaporizers. You're going to hear a lot more of it. If I was sitting on that side, I would speak out or I would be ashamed of myself.

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

**Mr. Bill Walker:** I just wanted to conclude the session today by saying it's been interesting to be involved in this process. I certainly thank all of the people of Ontario who have tried to be engaged. I'm saddened, again, that we were not able to hear from more people out there, as my colleague Ms. Gélinas has said. We tried to provide an opportunity for that to happen, and sadly, it didn't.

We tried to present many amendments that we felt would be listening to the people who came to us. Every issue has the ability to have the pro and the con presented, and we try to find ways to amend so that we can actually create legislation that's going to impact all Ontarians in a positive manner. Again, very few of those were ever listened to.

It is my expectation that we bring a balanced view to these types of pieces of legislation. I am certainly hopeful. I've met with staff, and they have apprised me that in the regulation process, they will be making some overtures to amend some of these things. I certainly hope that will be the case when it's finalized. From the perspective of a lot of the discussions we've had with individual stakeholders and organizations that came, both pro and con, we want to ensure that we are listening, that we're trying to take their advice and make it a piece of legislation that's truly going to help.

The title says Making Healthier Choices. There were some things that we suggested, particularly with youth smoking. We heard a lot of anecdotes, but what we didn't hear was a government that was prepared to truly address what I believe is the biggest issue out there. One would be to make it illegal. I still can't understand for the life of me—we do it with alcohol, which is proven to create harm if you overindulge. I can't believe that we wouldn't do the same thing with smoking—and certainly contraband. We've had numerous agencies and organizations tell us that that's a big issue. Youth smoking becomes rampant when you can buy contraband without any real incident or any real inspection, even, going on, and yet we're going to put inspectors on some of these other things.

I fully support the Healthy Menu Choices Act from the perspective of if we can engage people and make them more aware. I was hoping that we would see some things in there with regards to physical activity so that people are actually becoming more active in their lifestyle as opposed to just food. It's not one or the other; it should be a culmination of those. I would have liked to have seen that in there.

And certainly the e-cigarettes: I've said it many times in this committee. Having watched a loved one, my sister, die from lung cancer, there's nothing more horrendous that I'll probably ever witness. If she would have had the opportunity to have a vaporizer, that would have allowed her to stop smoking, or at least considerably decrease the consumption of tobacco. I think that's something we missed the opportunity for here, for many, many people.

We've again heard, whether it be anecdotal—anecdotal is one thing, but a real-life experience of someone telling me, "This allowed me to stop smoking"—I think there is merit, and we could have found some balance in the middle until those conclusive studies come out. I think adults should be allowed the ability to make those types of decisions knowingly. There's nothing saying they are harmful to their health, and at the end of the day, what we're going to find once the conclusive studies are in is that vaporizers or e-cigarettes are probably a lot less harmful than straight tobacco, and my fear is we're going to drive people back into it.

I've talked about the flavouring. Again, I'm not certain how conclusive it is. If you take away menthol, what we've heard from many people who are actually menthol smokers is that they're not going to stop smok-

ing menthol; they're going to go to a different market and find a way to buy that. They're going to go to that contraband shop that, again, this government is not taking any action on. They've used the argument that that's a finance bill, but I think that could have been quite easily put into this bill, as well, and we could have started to address that issue.

What I've certainly tried to do in my time with this committee is to bring a balanced view, to try to find some middle ground so we're supporting the intent of making people healthier, but also trying to ensure that we don't inadvertently cause negative impacts to those same people of Ontario.

**The Chair (Mr. Grant Crack):** Prior to Ms. Gélinas, I just want to remind all members of the committee that when you're speaking to a particular issue, it should focus on the amendment at hand. There are other opportunities to perhaps get other comments on the record when we're discussing the section or towards the end of the bill. Let's try to stay focused with regard to the amendment.

Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Well, talking about the amendments, the Making Healthier Choices Act, calorie labelling has been brought forward in this Legislature many, many times. We knew what we were talking about. It's the same thing with banning flavoured tobacco.

When it came to e-cigarettes, did we need to regulate? Yes, absolutely. Did we have time to do a good job to make sure that we are regulating those things the way we should? I am not so sure. The process went pretty well until second reading, until deputations came, until a whole lot of new information was brought forward to us, and we did not have time to deal with that.

The first two schedules of the bill—I'm very positive that we hit it right. For the last schedule of the bill, with the e-cigarettes, I'm not so sure, especially when it comes to banning flavours and when it comes to banning people having access to learn how to use those vaporizers that are becoming more and more sophisticated and complicated to use.

I tried to interpret the bill and the amendments we're looking at as to, "Will it keep us from doing this?" I can't tell. We didn't have enough time to have legal counsel counsel us to fully understand. Here we are. I hope we've got it right, but I'm not sure—the first two parts, absolutely; the last one, I hope so.

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

**Mr. Randy Hillier:** This is not a lost opportunity. This is a purposeful squandering of an opportunity. I agree with the member from the third party: Schedules 1 and 2 are not a problem. But to squander and to squash the opportunity to use innovation and technology to improve people's lives, to prevent the premature death of so many Ontarians, is absolutely unforgivable, in my view.

**The Chair (Mr. Grant Crack):** Any further discussion on PC motion number 40? There being none, I shall call the question.

**Ayes**

Hillier, Walker.

**Nays**

Anderson, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** PC motion number 40 is defeated.

We shall move to schedule 3, section 15, in its entirety. Any further discussion? There being none, shall schedule 3, section 15, carry?

**Ayes**

Anderson, Dickson, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** Schedule 3, section 15, is carried.

We shall move to schedule 3, section 16. Any discussion? There being none, shall schedule 3, section 16, carry?

**Ayes**

Anderson, Dickson, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 16, is carried.

**1700**

We shall move to schedule 3, section 17. Is there any further discussion? There being none, shall schedule 3, section 17, carry?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** Schedule 3, section 17, is carried.

We're going to deal with schedule 3, section 18. Further discussion? There being none, shall schedule 3, section 18, carry?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 18, is carried.

We shall move to schedule 3, section 19. Further discussion? There being none, shall schedule 3, section 19, carry?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 19, is carried.

We shall move to schedule 3, section 20. Any discussion? There being none, shall schedule 3, section 20, carry?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3, section 20, is carried.

We shall move to the title of the bill. Is there any discussion on the title of the bill?

*Interjections.*

**The Chair (Mr. Grant Crack):** We'll go back. We're going to deal with schedule 3 in its entirety. Shall schedule 3 carry?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Schedule 3 is carried.

We shall move to the title of the bill. Any discussion on the title? Mr. Hillier.

**Mr. Randy Hillier:** As I stated, schedules 1 and 2 do go along with the title, Making Healthier Choices Act; schedule 3 does not. It is actually removing healthier choices from those addicted to tobacco. It is false for the government to put this bill forward with this title. It is, as

I said earlier, unforgivable that we would take away people's choice to quit smoking and make it more difficult, and condemn so many to a premature death from remaining hooked and addicted to tobacco. It's a poor choice in title.

**The Chair (Mr. Grant Crack):** Any further discussion on the title? There being none, I shall call the question. Shall the title of the bill carry?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**The Chair (Mr. Grant Crack):** The title of the bill is carried.

Shall Bill 45, as amended, carry? Any discussion? There being none, those in favour?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier, Walker.

**The Chair (Mr. Grant Crack):** Bill 45, as amended, is carried.

Shall I report the bill, as amended, to the House?

**Ayes**

Anderson, Dickson, Fraser, Gélinas, Hoggarth, Kiwala.

**Nays**

Hillier.

**The Chair (Mr. Grant Crack):** I shall report the bill to the House, because it's carried. Thank you very much.

There is a comment, Madame Gélinas?

**M<sup>me</sup> France Gélinas:** Process-wise, will it be reported tomorrow or next week?

**The Chair (Mr. Grant Crack):** Generally it's tomorrow, but at first available opportunity, so depending on how things unfold, most likely tomorrow.

**M<sup>me</sup> France Gélinas:** During routine proceedings tomorrow?

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

No further discussion? I want to thank everyone for their hard work on an important bill. It has been a pleasure working with you all. This meeting is adjourned.

*The committee adjourned at 1705.*





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