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**Official Report
of Debates
(Hansard)**

Friday 22 April 2005

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Chair: Pat Hoy
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Friday 22 April 2005

Vendredi 22 avril 2005

The committee met at 0903 in the Holiday Inn, Oshawa.

The Chair (Mr. Pat Hoy (Chatham–Kent Essex): The standing committee on finance and economic affairs will please come to order. The committee is pleased to be in Oshawa this morning.

Mr. Jerry J. Ouellette (Oshawa): On a point of order, Mr. Chair: First of all, I'd like to thank the committee for coming to the riding of Oshawa to give Oshawa's perspective on this very important piece of legislation. I also thank the presenters today for bringing forward theirs. Thanks to the Chair for the opportunity to say thank you.

The Chair: It's not a point of order, but it is a point of interest and greetings.

TOBACCO CONTROL STATUTE LAW
AMENDMENT ACT, 2005
LOI DE 2005 MODIFIANT DES LOIS
EN CE QUI A TRAIT
À LA RÉGLEMENTATION
DE L'USAGE DU TABAC

Consideration of Bill 164, An Act to rename and amend the Tobacco Control Act, 1994, repeal the Smoking in the Workplace Act and make complementary amendments to other Acts / Projet de loi 164, Loi visant à modifier le titre et la teneur de la Loi de 1994 sur la réglementation de l'usage du tabac, à abroger la Loi limitant l'usage du tabac dans les lieux de travail et à apporter des modifications complémentaires à d'autres lois.

ROBERT KYLE

The Chair: I call upon our first presenter of the morning, Robert Kyle. Would you please come forward? Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording, Hansard. You may begin.

Dr. Robert Kyle: Good morning, Mr. Chair, and members of committee. Welcome to the city of Oshawa in the smoke-free region of Durham. I'm Robert Kyle. For 14 years, I've been the medical officer of health for Durham region, and I'm here representing myself. I am accompanied by three of my colleagues, who may assist

with the questions and answers. To my far left are Joanne Bradley, manager of public health, nursing and nutrition with the health department, and John Ingrao, manager of environmental health with the health department, and to my right is Annette Laferriere, my administrative assistant. My slides are in the package, which I believe the clerk distributed to you, so if you need to make some notes or what have you, please do so.

I strongly support the provincial government's comprehensive tobacco control strategy, including the proposed Smoke-Free Ontario Act. I understand that the proposed legislation would prohibit smoking in all workplaces and enclosed public places as of May 31, 2006. The proposed act would also limit the sale, distribution and use of tobacco products.

As I said, we believe this is an important component of a comprehensive tobacco control strategy, which has as its main components prevention, protection and cessation. We believe the legislation will enhance our current tobacco control activities at the local level. Durham region's current tobacco control initiatives are part of a comprehensive approach. These initiatives in Durham region are designed to prevent youth from starting to smoke, reduce youth access to tobacco by educating the public and vendors and ensuring compliance with the current TCA, support tobacco industry denormalization, encourage parents to protect their children from second-hand smoke, assist people who want to quit smoking and protect people from second-hand smoke through the enforcement of Durham region's smoke-free bylaw.

I believe that second-hand smoke is a public health issue. I hope the Chair and committee are well versed in the health effects of second-hand smoke. Second-hand smoke is a serious proven health hazard. There is no safe level of exposure to second-hand smoke. It contains over 4,000 chemicals. Approximately 50 of these are known to cause cancer, and it's estimated that exposure to second-hand smoke causes between 1,100 and 7,800 deaths in Canada every year, at least one third of these occurring in Ontario. In adults, second-hand smoke causes heart disease, lung cancer and nasal-sinus cancer and in children, second-hand smoke causes SIDS, bronchitis, pneumonia and other lower respiratory tract infections, worsening of asthma and middle-ear disease.

I thought it would be useful to the committee to perhaps focus for just a moment on Durham's smoke-free experience. Durham's smoke-free bylaw was imple-

mented on June 1 of this year. The enactment of our bylaw coincided with phase three of York region's and the city of Toronto's smoke-free bylaws. Prior to this, there was a patchwork of bylaws throughout Durham's eight municipalities. To the extent that there was any regulation, it was of public places. Workplaces were not covered by the existing bylaws. This is similar to the current situation in Ontario, where smoke-free bylaws vary widely from one community to another in the level of protection they provide for workers and residents.

0910

Our bylaw was passed in December 2002 after an extensive public consultation. I might add that our smoke-free experience journey started in the spring of 2001, when Katherine Hastings, an elementary school student, came to a meeting of Durham region's health and social services committee with a petition requesting that all of Durham's restaurants go smoke-free. The Chair at the time and myself sent her petition to the eight area municipalities, and the city of Pickering requested that the region consider passing a regional smoking bylaw. At the time, the power to pass bylaws was vested with the eight area municipalities, so in fact that power needed to be uploaded to the region.

A public meeting was held in each municipality and people were able to phone, fax, mail or e-mail their comments. Over 1,400 residents, business owners and workplaces provided their input. The results of the public consultation were clear: A large majority of Durham region residents supported a smoke-free bylaw. Generally, throughout the consultation, there was little support for DSRs in public places and workplaces, and apart from five bingo halls in Durham region, there are no DSRs in restaurants or bars. People expressed concerns for the health of employees who worked in DSRs, and some commented on problems inherent with DSRs, including the cost of building and maintaining them, which in turn would create an unlevel playing field for businesses.

Since our bylaw was passed, what have been the results from an enforcement perspective? From June 1 to March 31 of this year—I'm sorry; I missed the middle section. During the implementation of the bylaw, we have been keeping track of public opinion through a monthly survey that we implement in the health department. Currently, almost one year post-implementation, the survey results show that support for the bylaw continues to increase. At the end of 2004, 88% of those surveyed supported 100% smoke-free restaurants, and 76% supported 100% smoke-free bars.

In terms of inspection, so far, from June 1 to March 30, we have conducted over 4,500 inspections. Only 15 premises have been charged under the smoke-free bylaw, and only 68 warning letters have been issued.

My last slide, then. In conclusion, again, I've spoken in support of the proposed Smoke-Free Ontario Act. Smoking is the number one preventable cause of premature death in Ontario. In fact, tobacco use accounts for the death of approximately 16,000 Ontarians each year. I

encourage the members to support this important piece of legislation.

I've distributed to the Chair and committee a portfolio that we produced to promote the smoke-free bylaw. We've also included in that package a copy of the regional smoking bylaw report that we prepared, which provides facts and figures regarding our public consultation. We've also appended to that some comments that we prepared as a result of questions being posed on the report by our area municipalities. Lastly, we have provided some facts and figures about tobacco smoking in Durham region.

With that, I'll conclude my remarks. Hopefully, I've stayed within the 10 minutes. I'd be happy to answer any questions the Chair or committee has.

The Chair: The first of round of questioning this morning with go to the official opposition.

Mr. Ouellette: Thank you very much for your presentation, Dr. Kyle. I very much appreciate that.

I have a number of questions for you, quickly. What's the bylaw that came in? There were a number that complied with that, and some of the smoking rooms that other areas have put in as well—not just so much the bylaw, but in other areas. They've put out a lot of funds for these. Do you think there should be any levels of compensation for those groups, organizations or businesses that complied with the requirements for the exhaust fans and the smoking rooms?

Dr. Kyle: I really don't have any opinion on that matter.

Mr. Ouellette: OK. One of the other things you said was that, in regard to SIDS, there was certainly clinical data. Do you have any studies or information that indicate that? Because we've heard a number of things as relate to SIDS being a number one cause of death.

Dr. Kyle: I would refer to the information in your portfolio. If that clinical information is not referenced, I can certainly provide that offline.

Mr. Ouellette: I would very much appreciate that.

Two other things: Do you think that the bylaw that was established in the region of Durham is effective enough in regard to this or do you think it needs to go further?

Dr. Kyle: There are a few gaps in the bylaw. I think it's a very good bylaw. As I indicated, our council decided to provide DSRs in bingo halls. After the bylaw was enacted, it decided to exempt the Great Blue Heron casino, and private clubs are excluded from our bylaw. There have been some difficulties in interpreting a "private club" and delays in the prosecution of charges related to private clubs that don't meet the definition within the bylaw. It's my reading of Bill 164 that it would address all of those current challenges with our bylaw.

That aside, I think the bylaw is a pretty good piece of legislation. I see Bill 164 augmenting it, as I say, in those areas that are not currently covered.

Mr. Ouellette: I know my colleague Mr. Barrett has some questions as well.

Mr. Toby Barrett (Haldimand–Norfolk–Brant): Thank you, Doctor. Why do you allow smoking in the five bingo halls and in the casino?

Dr. Kyle: That was the decision taken by council. It was based, in part, on the feedback they got from public consultations.

Mr. Barrett: The survey said to leave it in the casino?

Dr. Kyle: We received both, if you will, delegations at our public hearings, as well as written comments, primarily from clubs and organizations that are dependent upon the proceeds from bingo halls. Our council took that into account when it was deciding what should go into the final bylaw.

Mr. Barrett: How many charities would receive funds through—

Dr. Kyle: I don't have that information.

Mr. Barrett: About 40 for each one?

Dr. Kyle: I'd have to check our records. We would have a record of that, but I can't give you a number.

Mr. Barrett: You quoted, or maybe it's in the report, that there's no safe level of second-hand smoke. Whose research was that?

Dr. Kyle: Again, it's in the report. I don't want to give the committee any false information.

Mr. Barrett: It's in here?

Dr. Kyle: Actually, we have a 700-page report. I've given you just the text of this without the appendices. I'd be very happy to leave the full report. I obviously can't give all members of committee the full report, but I'll leave it behind.

Mr. Barrett: So that would contain research papers that indicate second-hand smoke—

Dr. Kyle: It would cite the research; it wouldn't necessarily include the actual research documents themselves, but we could make that available if it's cited in the report. I'd be happy to leave this report behind.

Mr. Barrett: Yes, if you did have research that indicated that, I'd ask for that.

The Chair: Thank you for your presentation. Before you leave, if you do provide information, if you would send it to the clerk and he will ensure that every member of the committee has a copy. I think the point was made that we did not need the 700-page report, but there was a request for some information. We'll ensure that everyone has a copy of that.

ROYAL CANADIAN LEGION, BRANCH 43

The Chair: The Royal Canadian Legion, Branch 43, if you would please come forward.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard. You may begin.

0920

Mr. Doug Finney: Good morning, Mr. Chairman and committee members. Thank you very much for the opportunity to appear here today. My name is Doug Finney. I'm president of Oshawa Branch 43 of the Royal Canadian Legion. We have approximately 1,600 members, 400

of whom are veterans. I'm also the national vice-president of the Korean Veterans Associations of Canada. There are approximately 3,600 veteran members across Canada.

At the Oshawa Legion Branch 43, we still allow smoking, since we're a private club, in the areas of the clubroom and the darts/pool area. We also have no smoking areas: the auditorium, library, VIP room, the boardroom and the office area. These areas are cut off from the clubroom area. This fits in with our program.

The World War II veterans are in their early eighties, and some still smoke. It would be a hardship if they were not permitted to smoke and unable to visit their fellow veterans. These veterans received cigarettes through the Canadian government during WWII.

I smoked when I was 16, for only six weeks, and have not smoked since. Being one of the younger Korea veterans at 72, it does not bother me if they smoke. We too were supplied with cigarettes through the government during the Korean War.

We feel that the program to stop smoking is working, as we notice that sales have declined in the Legion. We sell them only for convenience. In 2002, we sold \$74,080 worth of cigarettes. That dropped in 2003 to \$52,078. During 2004, we sold \$40,700. This year, it is \$32,705. This is a drop of about 56% in four years, which we're pleased to see.

Over the last few months I've taken articles out of the USA Today newspaper about cities and states that are taking action to cause a decline in smoking. Most are cutting out restaurants, businesses and public areas like banks, sports arenas, shopping malls, restrooms and laundries. However, they continue to allow smoking in bars, the American Legions and Veterans of Foreign Wars clubs.

In yesterday's Toronto Star newspaper, Veterans Affairs Minister Albina Guarnieri tabled the changes in Parliament promising new veterans "cash, care and careers," and said that "caring for veterans is the signature of a grateful nation." With this proposal of no smoking going through, this would be a downfall to the minister's statement. In other words, "We support them, but do not smoke."

Are we starting a new trend here if we ban smoking, such as cigarette smuggling once again, by not allowing smoking in every available public place, forcing smokers back into their homes where children are and where there shouldn't be smoking?

Our Oshawa Legion members have signed the smoking petition. We have returned 46 sheets, with approximately 15 names on each, which is close to 700 people. That's about 43% of our membership.

A few Legions in this area banned smoking, which has caused problems financially, and some members' not renewing their membership. They are talking about closing their businesses. This is the same as some bars in the Oshawa area closing due to lack of business.

We are forcing local people out of their areas, to travel to meet their friends for an evening out, when they should remain local.

We urge you to keep targeting children with “No smoking,” and let veterans and seniors have a couple of places where they may relax with their friends and have a smoke with their drink.

We feel that we should let veterans continue smoking, as they will not live that much longer. If they have smoked this long and are still in good health and still active, then let them be.

I strongly urge that we let our veterans continue on, enjoying themselves in the final years of their lives, especially given the number of years that they gave their service to Canada.

I thank you very much. I’m also very pleased that you would have this forum here today. I come down here every morning to go swimming, so it wasn’t far to come.

The Chair: Thank you for your presentation. This round of questioning will go to the NDP and Ms. Martel.

Ms. Shelley Martel (Nickel Belt): Thank you, Mr. Finney. We appreciate that you’re following a healthy lifestyle. Some of us should have come earlier to go swimming too, I suspect.

Let me say on behalf of everybody that we very much appreciate the sacrifices that were made by our veterans, and we appreciate that you came here this morning to speak on their behalf.

I have to tell you my personal view; I think you’re entitled to know that. In my community, when the smoking bylaw went into effect, Legions were not considered private clubs, so all of the Legions in the riding I represent have been smoke-free for over two years now. That is an initiative that I personally supported at the local level as well. I want you to know where I’m coming from.

I say that because I’m in the Legions quite often. When I go into the clubroom, I see a mix both of veterans and their family members. I also see staff at the bar serving alcohol and food and selling Nevada tickets etc. When I come down to it, for me it was that there are staff who are there, and I think they need to be protected from second-hand smoke. As I look at the composition of people who are in the clubrooms in my riding now, overwhelmingly there are fewer veterans, obviously, and a lot of family members whom I also hope we are protecting from second-hand smoke.

That’s where I’m coming from. I want to be upfront with you and say that that’s the reason I have trouble considering Legions to be private clubs and I have trouble then accepting an exemption for a clubroom where I see employees who could be affected by second-hand smoke and where family members might be affected as well.

I don’t think I have any questions. I appreciate the argument you’ve made to the committee, which is one that I think we’re going to hear in other communities. I know that Ontario Command wrote to the Premier and to the Minister of Health and Long-Term Care and asked for some consultation before the legislation goes into effect. I’ve regretted that it didn’t appear that the staff in the Premier’s office or the minister’s office had had a

meeting directly with Mr. Kish. Mr. Fonseca might want to say something, but at least in the correspondence we got from Mr. Kish, that didn’t seem to have happened. I wish that had happened directly with him as a representative of Ontario Command.

I have to say that that’s where I come down. I think we should be in a position where we don’t have exemptions, because there are so many people in Legions now over and above veterans who I hope we’re trying to protect from second-hand smoke as well. I just wanted to tell you that that is my position.

Mr. Finney: I support you 100%, but you say, “No exemptions.” How come casinos can have them? How come certain spots—

Ms. Martel: Oh, I don’t agree with that either.

Mr. Finney: If you’re going to cut out smoking, then quit selling them. But if you’re going to allow some and not others, then we have a problem.

Ms. Martel: I agree with you entirely. In my community there were no exemptions: not in the casinos, not in the bingo halls and not in the Legions. Even in nursing homes in my community there are no separate smoking rooms for residents in long-term-care facilities. So I agree with you that you either have the same rules for everyone or you’re just going to have an ongoing problem with people wondering why some are exempt and some aren’t.

The Chair: Thank you for your presentation this morning.

OSHAWA COMMUNITY HEALTH CENTRE

The Chair: I would call on the Oshawa Community Health Centre to come forward, please. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

Ms. Ana Pacheco-Rye: Good morning. Thank you for having us here. I’m Ana Pacheco-Rye, a youth health worker with the Oshawa Community Health Centre. I have with me B.J. Weston, Charlan McDonald and Renea Mattis. We are here to speak to you today on how current acceptable methods of tobacco advertising affect children and youth in our community. However, instead of my speaking to you on behalf of youth, I thought it would be better for you to hear directly from youth. So we have B.J., who’s going to be speaking.

Mr. Brian J. Weston: Hello. My name is B.J. Weston. I’m a member of the Youth-to-Youth program with the Oshawa Community Health Centre. The Oshawa Community Health Centre’s mission is to help people to increase control over and improve their physical, emotional and social well-being while assisting them to build a strong, healthy Oshawa: “Your wellness, our mission.”

The Youth-to-Youth program offers me the opportunity to work with younger children in local elementary schools to cover and research topics that affect them. We have researched various topics, such as violence, rape

and poverty. One of the current topics that the children are researching is drug abuse and prevention, and why it happens. Tobacco is one of the drugs included under the list of drug awareness.

0930

In the role of a youth-to-youth facilitator, I am here to talk to you today about tobacco advertising and how it relates to the Smoke-Free Ontario Act. Specifically, I am here to ask that you ban tobacco advertising in retail stores so that youth and children in our community have a better chance at life.

There are a great many environmental and health concerns that our community, province and nation face. Included in this is adequate nutrition for youth, childhood poverty and air pollution caused by hydrocarbon combustion, which is causing climate change. In addition to these concerns is the role that tobacco has in our society and on the lives of youth.

Canada has been a world leader in tobacco control and helping prevent youth from smoking. We have banned cigarette advertising and sponsorship nationwide, but still the tobacco industry is targeting kids through product placement in movies and advertising in retail stores. The aim of these marketing techniques is not only to build brand awareness but also to normalize tobacco use, making it look like cigarettes are normal and commonplace. The truth, of course, is that few people smoke, and those who do are exposed to a product that will kill one in three of its users.

Tobacco products in retail stores include everything from displays of packages on the counter to huge displays reaching the ceiling. These huge displays of tobacco products seen behind the counter in stores are commonly called power walls. Power walls, in almost every convenience store, supermarket and gas station, contribute to youth believing that everyone smokes. Research shows that the more youth overestimate the popularity of smoking, the more likely they are to become smokers. A total ban on retail displays would remove one of the main forms of tobacco advertising and lead the way to a smoke-free Ontario.

The government has an opportunity to make a decision that will drastically reduce the number of youth who are exposed to cigarette advertising, and consequently from starting smoking. Please think of our children when drafting this legislation and the ban of all tobacco advertising in retail stores.

Ms. Pacheco-Rye: We have distributed some promotional items just to give you a black-and-white and coloured version of what we're talking about. One of those items was produced by a high school student body here in Durham region, Port Perry High School.

The Chair: Does that conclude your presentation?

Ms. Pacheco-Rye: Yes.

The Chair: Thank you. This round of questioning will go to the government.

Mr. Phil McNeely (Ottawa–Orléans): I think I'll just start off with this. What I want to talk about are power walls and I want to ask questions of the people.

Thank you very much for coming today. I'll just reinforce what you've said, in preparing for the question. Tobacco companies spend about \$27 million, mainly targeted at youth. If you add in other things, it may come up to \$200 million across the country.

Those who already smoke know where they can find cigarettes, and they'll continue to go and pick up cigarettes even if we do take the exposure of the power walls away. A survey in California of grade 6 to grade 8 students has shown that two thirds of youth visit these retail stores on a weekly basis. With the power walls and with the survey, the best they could establish was that there was a 50% higher likelihood that youth would smoke because of these power walls, because of this advertising. The tobacco companies obviously know this, and that's why they spend \$200 million across this country trying to get you to smoke.

In my own city of Ottawa, we've had the no-smoking bylaw for, I think, three years. It has been very much a success; we're very pleased with the no-smoking bylaw. But we did not address advertising toward youth. At high schools in Ottawa, young people like yourselves have 24,000 petitions, signed to ask the government to get rid of power walls, and we're hoping that's going to be delivered to the Legislature next Thursday, and we hope that they come forward as well. So we've had your peers doing this great job for us in the city of Ottawa to get rid of the advertising in retail stores.

As a government, through municipalities, we spend quite a bit of money on public health nurses to reach out to you people, to get you on board and have you do the work of stopping smoking for us. There are cessation campaigns as well that the government spends a lot of money on to stop people from smoking. As a government, we spend money to stop you smoking, but tobacco companies spend maybe 10 or 20 times as much to get you smoking. What do you think of that?

Mr. Weston: At least there's an effort going forward from the government to stop it, but obviously something has to be done by the government to stop allowing the tobacco companies to do that. If they're still spending more money, then it's obviously going to be more powerful than your efforts to try to stop smoking. Something has to be done about it.

Ms. Pacheco-Rye: Actually, to add to that, tobacco manufacturers in Canada paid \$77 million dollars in 2002 to retailers for retail display space, to give them prime retail space. I think that's more than you pay in Toronto for having a store on the main walk.

Mr. McNeely: Just one more question on that. In today's newspaper, it says that one of the presenters yesterday, I believe, is paid \$18,500 a year from tobacco companies for two power walls, five metres long by close to two metres high, that hold 280 brands. They're spending \$18,500, a lot of that to get you to smoke. Any other comments?

Ms. Pacheco-Rye: If you look at the black-and-white poster there, with the young child with his back to the photographer and his face toward the power wall, he's

about eight years old. What kind of impact is that going to have on a child? “It’s OK because, look, it’s in mommy’s and daddy’s grocery store. It’s in the corner store that I run by and go to to get milk for dinner.” It has a great deal of impact, subliminally, and right in front of your face.

The Chair: Thank you for your presentation and, on behalf of the committee, I would say you did very well.

CANADIAN CANCER SOCIETY,
CENTRAL LAKELANDS REGION

The Chair: I would call forward the Canadian Cancer Society, central Lakelands region, to please come forward. I would remind you that you have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording, Hansard.

Ms. Helena Finn-Vickers: Of course. Good morning. My name is Helena Finn-Vickers. I am the outreach consultant for central Lakelands region. It’s a geographic area of five unit offices that are staffed. I am a support person for staff in the Whitby office, the offices in Peterborough, Orillia, Barrie and Owen Sound. So we encompass quite a large geographic area.

Mrs. Chrissie Stokell: My name is Chrissie Stokell. I’m a survivor, an ex-smoker, and I’ve been a cancer society volunteer for 20 years.

Ms. Finn-Vickers: I’m here to congratulate the government on Bill 164 on behalf of the Canadian Cancer Society. I’m also proud to be here in honour of a Canadian Cancer Society volunteer who, last December 15, the day this legislation was called, unfortunately lost his recurrence with lung cancer. Don Dusenbury was a very powerful motivator in the work that I do with the Canadian Cancer Society. He embodied the mission of the organization, which is doing everything we can to eradicate cancer and enhance the quality of life of people living with cancer. He lived that, after a very long battle with lung cancer. He was an amazing volunteer who supported other people newly diagnosed with lung cancer, but his passion was discussing tobacco legislation and working toward the municipal bylaws wherever he could. He spoke at meetings. He would have been the first person, when I put out a call, to say he would be here today. So in his honour, I speak to you today.

0940

The protection of all people from second-hand smoke is so important. Second-hand smoke is a huge health risk to individuals of all ages. Not only am I a staff person, but I’m a mother of two beautiful little girls whom I will do everything in my power to protect in whatever way I can. I speak to you today on their behalf as well. Providing them with protection so they are not exposed to second-hand smoke in any public place is very important to me.

Second-hand smoke kills. I’m sure you’ve all seen the statistics. The Canadian Cancer Society—cancer.ca—site is full of information. I’m not here to relate statistics to

you today, but what I do want to say is that it is so important that Bill 164 does pass, that we do something about not allowing designated smoking rooms or ventilation of any kind in this bill. Designated smoking rooms are inadequate. They do not protect people’s health the way, in theory, they should. We know that they simply don’t work, and ventilation does not work. The region of York studies: 103 different designated smoking rooms were checked and 78% of them failed in their operation. That is a scary statistic.

The Canadian Cancer Society also urges this government to protect all youth from tobacco advertising and promotion of any kind. I am again speaking to you as a mother. My older daughter is seven and a half. She’s a very astute watcher of people and of what’s going on around her. She and I have talked about the dangers of smoking because, again, I will do everything I can to reduce their risk in whatever arena we are in. They wear their hats and their sunscreen when they’re outside. I will protect them from the sun. I will protect them by their knowledge of why smoking is dangerous for themselves and why second-hand smoke does kill.

We were in a local—I almost said the name—convenience store buying bubble gum. What does my seven-year-old say to me? “Look at all those coloured packages, Mummy. They’re bad for you, aren’t they?” She saw all the cigarettes. That’s the first thing she looked at, but she knows they’re bad for her. I’m proud of that fact. As long as I can, I will try and help them understand that information, but it’s because I take the time to share that message with my children. If this bill is enacted, parents will have one less thing they have to focus on to protect their children. Please, bring in this bill.

Don Dusenbury, our volunteer who died last December, spoke from the heart as a cancer survivor and as someone who understands the danger of smoking. I hope all of you have seen his commercial from a few years ago where he talked about not only his own experience but losing his son to lung cancer. That devastated Don. That motivated him to be a voice for the Canadian Cancer Society. If, in any small way, I can be a voice to say, “Please, protect our youth, protect all people from smoking and the dangers of second-hand smoke,” call on me any time and I will take up Don’s challenge.

I want you to hear from our volunteer Chrissie Stokell.

Mrs. Stokell: The reason I joined the Canadian Cancer Society was partly because of the support that I had received and mostly because of the message that it gives me the chance to bring to so many members of the public because I’m one of the people who goes out on their behalf and speaks to people.

I grew up in India and Africa, in many African countries. I was born in 1942, so you do the math. At the time we were in Africa and India, smoking was regarded as being a health protection. Parents were encouraged to smoke close to the children because it helped to keep the mosquitoes away and therefore we would have less risk of malaria. The doctors we saw smoked in their offices because it was believed by them that it would reduce the

risk of cross-contaminating patients with the illnesses we were exposed to. So smoking was supposedly a benefit.

My parents were chain-smokers. The only thing that was said to me about it was, "If you eventually smoke, you will have no money." That's very true. I smoked until 20 years ago when I was in hospital with an undiagnosed complaint that turned out to be, "Mrs. Stokell, we're sorry to tell you this, but you have a malignancy in your liver. The damage is very severe. There is experimental surgery available, which might save your life or it may kill you." It took 364 days in Wellesley Hospital for me to be the person you see now, attributable to cigarette smoke.

Cigarettes, once in the mouth, travel through the entire body. Lung cancer isn't the only thing. Both my parents died of cancer. My brother is currently fighting with liver cancer, having had prostate cancer. My husband was a smoker until he was diagnosed with thyroid cancer two years ago; that was removed. He had prostate cancer last year; that was removed. We are both now survivors. Our daughter was diagnosed with breast cancer. Our younger daughter died of cancer—all from a smoking atmosphere.

I went cold turkey as a non-smoker the day I was told that I had severe liver damage. Now when I walk into a variety store and I see the power wall there, I want to tear it down, for the simple reason that there is still the urge once in a while—not every day but once in a while—to buy a package. After all, it's just one pack, isn't it? That one pack could start the habit all over again. When I walk out of the store and I see a child smoking, particularly a child, I want to rip the cigarette right out of their hands. I know I can't do it, but that's what I want to do to protect them.

As far as the designated smoking rooms are concerned, we think we have an answer. No, we don't. That smoke travels all through the building. Look at any wallpaper, any chandelier. If there's a smoking room in the building, you'll find smoke right through all of it.

The thing I object to most is that if someone smokes near me, I have no option but to inhale that smoke, second-hand and first-hand. If I want to have a drink, I can have a drink and not affect anybody else. If I want to have a cigarette, then I pollute the atmosphere and we're all victims.

Now that I'm fit and healthy, I want to stay that way and I want to see as many people as possible stay that way. I don't want to see cigarettes anywhere.

I also don't like the double message, because while cigarettes are going up in price and the taxes are being collected, there are also advertisements on television asking people not to smoke. This is a very mixed message.

The Chair: Your timing is impeccable. We'll move now to the official opposition, Mr. Barrett.

Mr. Barrett: Thank you to the cancer society for the presentation. You mentioned India and Africa. I know from personal experience that it does keep mosquitoes away. I use the green mosquito coils that you ignite in your tent. There's smoke. I'm wondering if we should take a look at that.

Ms. Finn-Vickers: Again, you've still got smoke.

Mr. Barrett: That's exactly what I'm saying. I'm not sure how many chemicals are in those green mosquito smokers that we use in Ontario.

Much of the tobacco coming into Ontario does come from India, Africa and China. A lot of it doesn't come in legally. From testimony that we heard yesterday, apparently we have no idea what insecticides, fungicides or herbicides are used on this tobacco grown in tropical countries. Has the cancer society done any work on that? We talk so much about the constituents of tobacco smoke.

There might be another assumption here as well. I don't know whether I heard you talk about, if this bill is enacted, your concern about the power walls: The Liberal legislation we're debating today doesn't get rid of power walls.

0950

Ms. Finn-Vickers: That is why, sir, we're asking that this be excluded from your bill. I believe there has been some information shared with you—was it yesterday?—by the Canadian Cancer Society. Clause 3.1 (1) (c): "except in accordance with the regulations." The Canadian Cancer Society would like to see that taken out of the bill.

Mr. Barrett: That would be an amendment you're putting forward or requesting.

Ms. Finn-Vickers: I believe we're requesting it.

Mr. Barrett: Yes. On the second-hand smoke debate, you make reference that it's a huge risk, that second-hand smoke kills. We've heard figures of 16,000 for smoking tobacco. Do you have the numbers for second-hand smoke?

Ms. Finn-Vickers: In 2000-01, the Canadian community health survey suggested that more than one quarter, or 28%, of Canadians are exposed to second-hand smoke, and that a non-smoker exposed to second-hand smoke has a 20% increased chance of developing lung cancer. As our volunteer mentioned, it's not just lung cancer we're concerned about. There are so many health issues with second-hand smoke.

Mr. Barrett: Is that 28% from coroners' data, like death certificates? Where do these death probabilities come from?

Ms. Finn-Vickers: I don't know if they're death; they are the increased chance of developing lung cancer in a lifetime.

Mr. Barrett: You don't know where they came from, though?

Ms. Finn-Vickers: The Canadian community health survey, sir.

Mr. Barrett: Oh, a survey. That's what people assume. People said that in the survey.

Ms. Finn-Vickers: Those are the data they collected, yes.

Mr. Barrett: It's not based on scientific evidence, though. It's not that a researcher indicated it caused lung cancer by 20%.

Ms. Finn-Vickers: I believe it would be a research-based survey, sir.

Mr. Barrett: Will you try to find out what the research is, who wrote the papers and who published them?

Ms. Finn-Vickers: We could get you that information, if it's something we could forward to you.

Mr. Barrett: Certainly. I guess you would forward it to the clerk of the committee.

Ms. Finn-Vickers: Certainly, thank you.

The Chair: We have about two minutes left.

Mr. Ouellette: Thanks very much for your presentation. A quick question: This is a legal activity, and we're kind of dancing around this. Don't you think they should just ban the whole activity?

Ms. Finn-Vickers: Ban the use of tobacco?

Mr. Ouellette: Yes.

Ms. Finn-Vickers: The Canadian Cancer Society certainly isn't going to get into the legal rights of individuals. We're talking about a health issue. We have great concern for the health problems of people using tobacco, especially second-hand smoke. The Canadian Cancer Society will do everything in its power, through its staff and its volunteers, to promote risk reduction. Eliminating the use of tobacco, of course, would be a huge risk reduction for developing cancer. That's just one disease.

Mr. Ouellette: OK.

Ms. Finn-Vickers: Personally: absolutely. That's not speaking on behalf of the Canadian Cancer Society.

Mr. Ouellette: It's that we've created a society where we have—a tobacco country riding is where Mr. Barrett is essentially from; a lot of people have their lives dependent on it. We have grocery stores, variety stores that are dependent on this as a major source of income. How do we move forward to get where we need to be, and that's to compensate those individuals or find alternatives as a society? Effectively, we've created this entity. How do we move to other areas? I was just asking your opinion on what you thought and how we would achieve those goals. Thank you.

The Chair: Thank you for your presentation this morning.

JACK'S SALOON

The Chair: Jack's Saloon, will you please come forward? Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of Hansard.

Mr. Kevin Taylor: My name is Kevin Taylor. I'm representing Jack's Saloon and my son Kevin Jr. He's the owner-proprietor.

We bought this business in January 2001 from a previous owner, obviously. How we got into it is a long story. My son Kevin was playing pro hockey down south, and he was sent home with a broken hand. I was watching a 22-year-old kid go through basically a mid-life crisis. This opportunity came up, and we jumped on it. Unfortunately, I was the one who put the money up for it.

In any case, we've had our ups and downs over the last four years. When this smoking bylaw reared its head—I guess it really took hold last year, at the beginning of 2004—quite frankly, I was thrilled. On occasion, I'd go into the bar and have to change the air filter in the furnace, on a monthly or 45-day basis. Quite honestly, the filter came out black. It is a small bar, I should say; it's licensed for 75. It's at 432 Simcoe Street, just north of the Legion. I'd make a joke about all the black smoke going into the smokers' lungs. In any case, if I neglected to change the filter, say, after 45 days and it went to a two-months-plus basis, I would literally have to pick the filter out of the furnace. Of course, I was concerned about my son's health, with the second-hand smoke. Everybody in my family is a non-smoker.

On occasion, I would get into the bar on a Saturday night to watch a period or two of the hockey game—when hockey was being played—and by the time I got home, I would have to leave my clothes in the garage and have a shower before I was allowed in the house. So when this smoking bylaw presented itself, as I said, I was thrilled.

I have a problem initially with the date, June 1, because being a small establishment, we had no patio. I felt that the bars that had patios or enclosures put us at an unfair disadvantage. The only place where you could have a cigarette at our establishment would be on Simcoe Street on the sidewalk or in the back parking lot. But I thought that, over time, this would level itself out.

From June to December, the business did not pick up. My son Kevin has basically maxed out his line of credit to keep things going. I personally have had to pick up the rent the last three months in a row. This April is the first time the bar has paid the rent with a bar cheque. Six weeks ago we had a couple of our regulars filling out applications for Legion membership, and I thought, "This is enough."

I should back up here. Back in the spring, my son and I got into a bit of a discussion about this non-smoking. The private clubs, the Legions, the bingo halls, the casinos were being exempted. I certainly wasn't going to take on the Royal Canadian Legion. These poor guys put their lives on the line for us so we could be here today, and if some 80-year-old gentleman or lady wanted to have a cigarette, I felt that they're entitled to it. If my grandfather were still alive, if he wanted to come into this hearing and have a cigarette, in my mind he's entitled to it. He's fought for this country. He deserves it.

The problem I have with these private clubs, and particularly the Legions now, is that they're not actively recruiting members but they're not turning anybody down. As I said, we're within walking distance of one. When these two patrons were filling out this application, I'd had enough. I walked across to the Legion. It was the first time I'd ever been in this Legion. Obviously, I was lost. I walked into a couple of rooms that were empty. I finally found the bar and ordered a draft. I was not asked for membership, a signature—nothing. I had my beer, left, and phoned the health department.

Since then, I've played hockey with a fellow who's a member of the Navy Club. He says that on occasion when he gets into the Navy Club, he sees a lot of strange faces that he's never seen in the last dozen years that he's been a member there. And, of course, they're all smokers.

1000

At the French club down the street from us—I was not even aware that there was a French club. In any case, we have another patron that's an accepted member in the French club. I don't mean to be snide but I'm surprised, as this fellow could hardly put two English sentences together, but he's now a member.

All we're looking for, as are, I think, most of the bars and restaurants in the Durham area, is a level playing field. These so-called private clubs—and I'm not saying the Legion is a so-called private club. I hate using them as an example, but I have no choice. I have it on good authority that the Legion on north Simcoe Street, from June 2004 to November 2004, accepted and approved over 230 new memberships. Small wonder why the establishments up in Oshawa north, like Jack's Filling Station, no relation to us—Mickey Finn's is closed, the Tartan, the Village Pump; they're all experiencing difficulties in their operations, and I know where their patrons are.

In closing, we just want a level playing field. You can't allow somebody to sell something—i.e. cigarettes—and consume them in one location, and bar it from another. As I see it, you have one of two choices: You either tighten up the controls, tighten up the legislation, or loosen it. Allow us to operate as we see fit. I know in this province that's not going to happen. Thank you.

The Chair: Thank you. This round of questioning will go to the NDP.

Ms. Martel: Thank you for coming this morning. I'm not sure if you were here for the earlier presentation by the Legion.

Mr. Taylor: No, I wasn't.

Ms. Martel: I wanted to just tell you a little bit about that exchange. In my community, when the bylaw went into effect there were no exemptions. I'm from Sudbury, and there were no exemptions across the community. So there was no consideration of either Legions or bingo halls or other establishments to be exempt from the bylaw. Everyone was on the same level playing field. I said to Mr. Finney, who was here this morning representing the Legion, that my own personal view was that there should be no exemptions to the bylaw. That was not what took place in our community and I think we were better off for it. He agreed that if there was to be a ban, it should be for everybody. So I'm not sure which Legion is his in relation to where your son's bar is—

Mr. Taylor: Within about 200 feet.

Ms. Martel: He said this morning that if there was to be a complete ban from all workplaces and from all spaces, that should include everyone: charities, Legions, bingo halls etc. That is my position. I think you are quite right that it is not a level playing field right now, and I'm

sure that in other communities where there were DSRs that were allowed or where there were exemptions, they've probably seen the same pattern of patrons moving, as you've experienced in your bars. From my perspective, coming from a community that operated without exemptions, that was the way to go. That is the way this legislation will go and I think that's the right thing to do.

Mr. Taylor: Even with the DSRs, I had some problems with the initial date being June 1 last year because we don't have a patio. We have no provisions for a patio, so the larger establishments that had DSRs and patios all of a sudden had an advantage over us. Fortunately enough, they were far enough removed from Jack's Saloon that it didn't hurt us too bad, but it still hurt us.

Going back to what you were saying regarding the ban in Sudbury, I played hockey in northern Ontario and I roomed with a gentleman who's now part of the OPP in Dryden. You're familiar with where Ear Falls is. Ear Falls, according to my friend Murray, had three licensed establishments: two bars and a Legion. There is only one establishment in Ear Falls that is serving liquor today. The other two, obviously, are out of business. The other two, I should say, were forced to go non-smoking because of the municipality, where the Legion was exempt. As I say, I don't want to take on the Legion.

Ms. Martel: I don't think anyone wants to put it in a perspective of taking on the Legion. I think the perspective I've tried to bring to it is that the Legion, club room included, is a workplace. It's true that veterans come there, but it's also true that many other people come there, including families of veterans. But it is also a workplace, so someone behind the bar who is selling alcohol or food or Nevada tickets is then exposed to second-hand smoke. The way I've tried to approach this legislation is that I see it as a piece of legislation that is put in place to make sure that employees and other members of the public are not exposed to second-hand smoke. I think that's the way to look at it.

Mr. Taylor: We even lost an employee because of non-smoking in the bar. She went to a private club so she could smoke while she worked. It's very ironic.

Ms. Martel: It is. Thank you for being here today. I don't have any further questions. Other members might, though.

The Chair: Thank you for your presentation.

PETERBOROUGH COUNTY-CITY HEALTH UNIT

The Chair: Would the Peterborough County-City Health Unit please come forward. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

Ms. Ingrid Cathcart: My name is Ingrid Cathcart. I'm very pleased to be here today. I work for the Peterborough County-City Health Unit. I have been re-

sponsible for the implementation and enforcement of Ontario's Tobacco Control Act since 1994. That led to my role as officer in the enforcement and prosecution of cases for Peterborough's smoking bylaw. I myself have laid close to 700 charges in all areas of tobacco and smoking offences.

Our bylaw began in January 2000, along with the cities of Waterloo, Windsor and Guelph, but unlike other jurisdictions, in Peterborough, bar and restaurant owners were allowed the option of a designated smoking room. This was a political compromise. Today, we are in full compliance with our bylaw. However, 10% of our bars and restaurants still have designated smoking rooms, or DSRs. In Peterborough, these DSRs have caused and will continue to cause us huge problems until they are gone. Some of these situations arose, and we couldn't even see them coming. The ingenuity of some owners is boggling.

Today the health unit and most, if not all, of our politicians recognize these problems and would not allow smoking rooms. I could easily spend half a day here outlining the issues, but this is not the place. So I hope you'll consider a few points I'd like to make.

Many smokers report that they don't like smoking rooms and can do without. The rooms are simply too smoky for smokers. Their friends won't accompany them in and they're embarrassed to go in.

DSRs are very expensive to construct properly. We know how tough it is in the bar and restaurant industry, which is why all but a few of our DSRs have been installed correctly, and even with the proper permits. Some appeared overnight. This has caused major problems and, trust me, for our legal department, costly ones.

Politicians believed these DSRs would calm things down and be seen as a compromise, but what actually resulted was hostility and resentment, because we upset the level playing field among establishment owners. You see, not every establishment has the cash, the space or the landlord who will allow these renovations. In addition, it's reported many times from owners that they saw their regular customers leave to go to a competitor where they could smoke.

The vast majority of bar and restaurant owners today believe smoke-free is completely feasible, as we have lived it since 2000. The major bars tell me it will be easier to send people outside than cram them into a little room. All the bar owners want—and believe me, I know them all personally—are the same rules for everybody.

I'd like to speak to what I know best, and that's enforcement of smoking legislation. I think I've seen about all the scenarios and problems.

1010

If you're a jurisdiction where DSRs exist, you will be swamped with them. Owners and customers leave doors open to the DSRs, resulting in complaints. Owners don't clean the filters or change the filters in the units, causing them to malfunction. You'll get many complaints because owners don't turn them on. We live in Canada; it gets very cold. Ventilation systems draw out hot air, which is replaced by warmed air, which is expensive.

Even if those owners turn them on in the winter, they'll get complaints from their customers because the ventilation we require causes drafts in these rooms. They don't want to offend their customers, so they don't turn them on.

These are very difficult complaints to enforce, because the evidence is very fleeting for prosecutions and it's very difficult to obtain. We can't measure the efficiencies of these units on the spot, and that puts us in an impossible situation. It's not fair to give this sort of enforcement to health units, because I can tell you, as a health inspector beginning 25 years ago, we're not trained for this. If you get your building inspectors involved, as we try to, they can only take it a tiny bit further. They can't solve these issues. They can't measure. They're not much more effective. Ideally, mechanical engineers need to be involved at every prosecution, at every measurement, and that realistically translates into a lot of money. We didn't have that money in Peterborough, so we have an ongoing poor situation.

If one is tempted to enforce this lightly, you can't, because the complaints flood in. They come in from staff, who won't tolerate it, and they come in from other businesses, who are very upset—again, the level playing field. We're playing with our businesses and hence their very lives.

These DSRs in Peterborough have sullied the wonderful accomplishments we have made in Peterborough, with over 90% of establishments totally smoke-free. We've come a long way. You don't need DSRs. We know this by the studies, and in Peterborough we know this by experience since 2000. The public is firmly planted behind all of us. Smoke-free is best. I know owners of six businesses today who are depending on the removal of these designated smoking rooms in 2006. They want to blame you so they don't offend their customers. They asked me to pass you that message. They've had them since 2000. They feel they can't. Please remove them.

Those of us who have been in tobacco for many years know that we're criticized whenever we do anything new. Opponents are loud, but they are few. The way I look at it, if you're going to be criticized anyway, at least do the right thing and let's get this over with.

But in the end, I'd do cartwheels around this place, because the biggest point I need to make is about the health of the workers, those who will be affected without the complete removal of these DSRs. I hope none of you believes that even if you give some power to an individual in this new legislation for the right of refusal in these rooms, it will solve the problem, because that's idealistic and unrealistic. The reality is that many workers are so dependent on their jobs and so afraid of repercussions that it will be the rare worker with the kind of courage and support required to take this move. In Ontario, most legal proceedings take a lot of time, and the workers can't wait for this support that the legislation promises to give them.

In Peterborough, in spite of our good intentions, we've made it worse for some of our workers. Those needing to

enter into these rooms enter into areas of highly concentrated smoke, or perhaps we should call them what they are: rooms filled with carcinogens. These workers haunt me, with their grey faces and coughs. We are all they have, and I hope you remember them.

The Chair: Thank you. This round of questioning will go to the government.

Mr. Peter Fonseca (Mississauga East): Thank you, Ms. Cathcart, for your presentation, and the Peterborough County-City Health Unit for having taken steps toward a smoke-free Ontario. We want to take that one big, giant step forward to making sure that we protect all Ontarians and make this a smoke-free province.

Often we'll talk about the costs of smoking on Ontarians in terms of 16,000 lives a year, but also we talk about the economics: \$1.7 billion in direct health care costs and \$2.6 billion in lost productivity and on and on. But I wanted to ask, have you ever quantified how much it's costing in Peterborough or in the province—I'm not sure if I've seen that number—around inspections, all the paperwork, all the administrative work that it takes to keep this patchwork quilt alive across the province? I'm sure it goes into many millions of dollars.

Ms. Cathcart: That's right, and the more complicated we make the legislation with exemptions, the more costs we're into.

I think Peterborough represents many areas of Ontario. Some health regions and health units have legal departments within them and it makes it a lot easier for prosecutions for complex legal situations, but much of Ontario is covered by small health units with no legal departments. Requiring the engaging of outside solicitors is sometimes up to \$500 an hour. So I'm here speaking for what I believe in, which is removal of designated smoking rooms. They are very complicated things to prosecute when they're improperly constructed, and even with staff needing to go in. So the costs are huge, and it's a burden that some municipalities cannot bear. It is too much for our municipality, if we can be seen as representative.

Mr. Fonseca: We want to make sure that all those precious tax dollars go into something that we find vital, which is our health care system and looking at helping and treating people.

Bill 164, the Smoke-Free Ontario Act, is a piece of legislation that is not to be characterized by exemption. That was one thing Minister Smitherman wanted to make clear: This is not to be characterized by exemption. Many calls that I've gotten into my office and letters have come in support from the hospitality sector, saying, "We are at an unfair competitive advantage that is being given to those who do have DSRs." The number of DSRs, I'll let you know, runs anywhere from a few hundred to, we've heard, around 700 in the province of Ontario.

I asked yesterday for how many hospitality establishments are here in Ontario. The number is 51,000 hospitality establishments. Those that have a DSR today make up less than 1% of all hospitality establishments that are out there. As we've heard from various present-

ers, they have this unfair competitive advantage. We want to make sure that there is a fair playing field out there for all business in Ontario, and this will go a long way to doing that.

Around enforcement, also I thank you very much for bringing up all the different minutiae around having to go into a place, how you test and how you get a reading. It sounds like you corroborate the York region study. I don't know if you've seen it, but within that study they say that 78% of all DSRs are ineffective, that they are not working the way they should be. I would think that the right and logical decision here, to protect all Ontarians and to make sure that there is a fair playing field, would be to eliminate those DSRs.

Ms. Cathcart: It's the only thing to do, in our opinion.

The Chair: Thank you for your presentation.

1020

THE YOUTH CENTRE

The Chair: The Youth Centre, would you please come forward.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

Ms. Kelly Ng: Good morning, everybody. Thank you for allowing me the opportunity to speak with you today. My name is Kelly Ng, and I'm a health promoter for the Youth Centre. We're a community health centre serving the youth of Ajax and Pickering. We provide health care services, counselling services and health promotion programming for the youth in our community.

Do you need my address as well for The Youth Centre? No? OK.

I'm here today because I've recently become involved in working on tobacco issues with youth, and I feel that it's important for me to speak in support of their interests in regard to the Smoke-Free Ontario Act. I feel that the entire act is important and, if passed, will go a long way toward further protecting Ontario's citizens from the effects of exposure to tobacco. But most importantly, the act will save lives.

As a community health centre serving youth, we're very interested in helping to create a supportive environment that does not encourage youth to become smokers and that supports the efforts of youth smokers who would like to quit. To this end, I'd like to speak in support of one recommendation in particular.

As part of the Smoke-Free Ontario Act, we urge the government to protect youth from tobacco advertising by prohibiting tobacco promotion at all points of purchase with no exceptions, including retail cigarette displays, often referred to as "power walls." These power walls are often located at the front of stores behind the cash register, where youth must make their purchases, and the displays are often placed in very close proximity to other products that appeal to youth, such as candy and gum.

Power walls are the tobacco industry's last remaining form of retail advertising. The displays are visible to smokers and non-smokers, adults and youth alike. They're inconsistent with the tobacco industry's claims that they promote only to adult smokers. In fact, in 2003 the tobacco industry paid retailers a whopping \$88 million to place retail displays across Canada in-store. These displays may increase the number of cigarettes that smokers smoke on a daily basis. Exposure to the power walls may make it more difficult to quit and, disturbingly, may be a strong factor in encouraging ex-smokers to take up the habit again.

Studies show that the more children and youth are exposed to retail cigarette displays, the greater the chance that they'll become smokers. To further illustrate this finding, research on primary school students reporting at least weekly visits to small grocery and convenience stores in California showed that such visits were associated with a 50% increase in the odds of ever smoking, after controlling for other social influences to smoke.

Twenty per cent of smokers are occasional smokers—this figure includes occasional youth smokers—and research indicates that about 60% of tobacco purchases are impulse purchases. As well, according to Health Canada, at any given time, 70% of smokers are trying to quit. Exposure to a retail power wall may be just enough to encourage a smoker to buy one more package of cigarettes.

Most smokers begin this deadly and highly addictive habit before the age of 19, and we must do everything we can to prevent this from occurring. Alarmingly, eight out of 10 youth who try smoking will become smokers. As well, anything that we can do to support youth smokers in their efforts to quit is a step in the right direction. Many youth do want to quit. This is already a difficult personal challenge, and we must do everything we can to make it as achievable as possible. Banning retail tobacco displays will play an important role in furthering Ontario's comprehensive tobacco control strategy.

Thank you very much for being an ally of youth. In your role as members of this standing committee of the Legislature, please support this important recommendation on the Smoke-Free Ontario Act. Thank you very much for your time today.

The Chair: Thank you. This round of questioning will go to the official opposition.

Mr. Barrett: Thank you for the presentation. We had a presentation earlier about power walls in retail stores. It's my understanding that the legislation that the government is bringing forward does not ban power walls. Is that your understanding?

Ms. Ng: No, that's not my understanding. My understanding is that, if the legislation is passed, retail tobacco displays will not be in stores any more. Is that not correct?

Mr. Barrett: It's my understanding—maybe the parliamentary assistant could explain that part of the legislation—that this legislation does not ban power walls. I understand that it will force the corner store people to

take away any cigarette products on the counter that they couldn't touch, apparently.

Ms. Ng: Right, but they'll still be in view. If passed, the cigarettes will still be in view.

Mr. Barrett: That's my understanding.

Mr. Fonseca: There was a Saskatchewan case before the Supreme Court of Canada around displays and being able to regulate those. We were waiting to see what happened in that case, and it was won by the government of Saskatchewan. So right now, around those power walls, that will be dealt with in regulations, because when we were putting this piece of legislation together, that case was before the courts at the time. I'll let you know that within this piece of legislation, all countertop displays will be banned and no individual will be able to hold or touch or handle the product until after purchase. So only the employee within that store or the owner would be able to handle the product before it is sold to the individual who is buying it.

Mr. Barrett: It's not in this legislation as it's written now.

Mr. Fonseca: As I said, as the legislation was being put together, that case was still before the courts.

Ms. Ng: I reviewed the government of Ontario Web site and maybe I misinterpreted. I'm part of the Wide Awake journalist committee as well, so I was working in collaboration with them in putting together some materials today.

Mr. Barrett: There is some confusion. I'm confused as well. I think it's written in there, but it's exempted. I'll have to get the legislation out. Again, it would be worth looking at that Saskatchewan court case. I understand if the government was to bring in a law to do that, the store owners would have to have a curtain that would go across it, or a screen, or they would take them down and put them underneath the counter so that nobody could see them.

Ms. Ng: Right. When I was looking at the Web site, I was thinking that would be the case as well. If people were interested in coming and buying cigarettes, they would have to make a specific request for them. Everything would be out of sight and they would have to go behind the counter. Any steps that we take in this direction are going to be great. My comments still stand, as a representative of the youth centre. I think banning countertop displays is a step in the right direction. Maybe in future we can go one step further and remove the cigarettes from sight completely, because all of my points are still valid in terms of people trying to quit, people making impulse purchases, or being influenced by the displays. They're just furthering their intake of nicotine and creating major health risks.

Mr. Barrett: Just one last question. We have a diagram here, a picture of the walls, and I know this gets complicated. The federal government, as I understand it, did a great deal of work and spent a great deal of money analyzing this. The warning signs on the packs of cigarettes take up 50% of the pack. The reason for that is so that people can see the warning label six feet away when

they're on a power wall. So if we've got another level of government advocating that the store owner move a curtain back and forth, those warning labels won't be seen. I don't know whether one level of government knows what the other level of government is doing.

Ms. Ng: I'm very glad that the warning labels are there, but the cigarette packages are still visible. I don't know if people are reading the warning labels when they're making their purchases, but when they see the packages, they're being even subconsciously manipulated or influenced to perhaps make a purchase.

The Chair: Thank you. The parliamentary assistant has indicated he has additional information to your question. I'll allow him to put that quickly.

1030

Mr. Fonseca: Just to be clear and to give clarification around this, section 3.1 of the act, "display, handling, promotion," reads:

"No person shall,

"(a) display or permit the display of tobacco products in a retail store by means of a countertop display;

"(b) display or permit the display of tobacco products in a retail store in any manner that permits the purchaser to handle the tobacco product before purchasing it; or

"(c) display or permit the display of tobacco products, or material promoting tobacco products, in a retail store except in accordance with the regulations."

Then, within the regulations,

"The Lieutenant Governor in Council may make regulations governing the display of tobacco products or material promoting tobacco products for the purposes of this section."

The Chair: Thank you for your presentation this morning.

THIRSTY CANADIAN PUB AND GRILL

The Chair: I would call on the Thirsty Canadian Pub and Grill. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

Mr. Richard Vissers: My name is Richard Vissers. I'm the owner-operator of the Thirsty Canadian Pub and Grill in Peterborough. Excuse my voice a little. I was at the Petes' game last night. It got loud and it got late.

I own a little pub/restaurant in a neighbourhood just a stone's throw away from the memorial centre where the Petes play hockey. A lot of my business is neighbourhood. That's why I put it there. There are no other real bars or restaurants around me except the memorial centre. It consists mainly of people who come there all the time because they know I have good food, a place they can sit down and have a couple of drinks and enjoy a couple of cigarettes in the back. I employ seven to 10 people: a couple of full-time plus myself, and five to six part-time.

I've only been in the restaurant/bar business for about a year, but all through college and up to this point I've

been in the bar industry. I've gone to bars. I've worked in the industry as well. I know smoking is an unfortunate part of this business. I personally don't smoke. I know of three or four other owners who have designated smoking rooms in their establishments who don't smoke, yet they know it's part of business. We put capital investment into the business knowing that we had a certain amount of time to financially make it worth our while to put these in place, and then all of a sudden we're changing it.

I know where we're going with the non-smoking, and it's going there. I know it. I always did. But it's part of a phase-out. I can't just tell people not to come by any more because they can't smoke. I don't want them sitting outside with cigarettes. Like, when you drive by schools, you see nothing but kids out front. I'm asking for more restrictions, like everything else. I don't sell the smokes, yet I've got to make sure that kids who are in with their parents don't go into the smoking room. It doesn't say that, but I make sure of that, because I have a child too. I just think it was a good-faith gesture for the businesses that stepped up—they were looking out for their businesses and their families—to put the DSRs in. They should at least be able to get their money back out of it.

Another part about it was restrictions. Everything we have in this country we put restrictions on. If we're feeling that it's not working, we'll restrict it, yet this seems to be, "Let's just stop it now."

My suggestions: I don't know if that matters, but if you're worried about the rooms not being maintained and scheduled, just like the health and safety, we schedule maintenance twice a year. They come in and check to make sure the filters are clean and that they're working properly at the CFMs.

Put employee restrictions into effect where, if it's not voluntary, then they don't go in that smoking room. If it is, then they're only in there for 10 minutes in an hour; just basically in and out, grab the beer bottles or whatever has to be cleaned up and do their job.

The main thing, and my question to you, is, what is the problem with a longer phase-out with restrictions?

The Chair: Does that complete your presentation?

Mr. Vissers: Yes, pretty much.

The Chair: You have time left. I don't want to rush you.

Mr. Vissers: OK. My customers are just like somebody sitting at home watching TV. If they're offended or not, interested in watching, and then in effect coming into my restaurant and having a smoke in the smoking room, they have that choice. They can change the channel. They don't have to go in there. Even if I put big signs over half of the door saying, "This room is deadly. You don't have to come in," I know people still will. It's just business. That's it.

The Chair: Thank you. This round of questioning will go to the NDP.

Ms. Martel: Thank you for coming today. I just need some clarification. I apologize for this. You have a designated smoking room in your establishment.

Mr. Vissers: Yes.

Ms. Martel: You paid to put that in?

Mr. Vissers: I bought a restaurant that had it in, knowing that was where I had to be.

Ms. Martel: At the point in time that you purchased it, the bylaw was that that was acceptable until a certain time in the future. Is that correct?

Mr. Vissers: Yes.

Ms. Martel: I am on the side of banning DSRs, but I also recognize that in a number of municipalities, when the bylaws came in—because there was a patchwork of bylaws—any number of people made an investment in a designated smoking room thinking they were going to be able to recoup their money before the sunset clause. They were, and still are, operating quite legally under the bylaw in place. My suggestion to the government has been, because the provincial legislation makes a change that they could not have foreseen when they were doing something that was perfectly legal, the government should consider some form of compensation for those owners who got a loan, who paid out money in order to have a DSR. We should be looking at compensation for them, and there is some precedent for that set under the previous government.

In your case, you purchased an establishment that had one in it. I assume—and maybe I'm wrong to assume this—there was an added cost to you with respect to the purchase because the payment for that DSR was still underway. Would that be correct?

Mr. Vissers: Yes.

Ms. Martel: Can you break that down? I'm not trying to have you expose your finances to the committee, but I'm just curious. Can you separate out what portion of the purchase that might have been related to that DSR you were hoping to recoup before the DSR might have been sunsetted?

Mr. Vissers: Well, I worked for the previous owner so I knew that specific business and I knew he put an investment of about \$7,000 into it. I know that the landlord reacted accordingly. It wasn't that I purchased; I took over after another restaurant went under, so I knew what I was getting into in one respect. I guess I was optimistic.

Ms. Martel: Do you think you've recouped that at this point? It's been in place for some time in terms of your purchase and your running the operation.

Mr. Vissers: I've only owned it just over a year. I don't even know how to measure how to recoup costs. I have a hard time figuring out how much I'm going to spend on the musician. How much are people going into the backroom to smoke or sitting up front to watch my entertainment? I don't put the entertainment in the smoke room; my entertainment is out front. I don't even encourage serving food out back, just because it doesn't make my food taste good.

1040

Ms. Martel: But in terms of your staff, they are going in and out of the designated smoking room?

Mr. Vissers: Yes.

Ms. Martel: For what it's worth to you, my personal perspective is that I view the legislation as a mechanism to ensure that other members of the public and workers aren't subjected to second-hand smoke. That's why I agree there should be a complete ban, just so you know where I'm coming from on this. But I also think that in fairness to people who put up money to operate under what was the law at the time, we ought to be looking at how to compensate some of those businesses, those tavern and bar owners who operated within the law and expected to be able to make up for that, who still need to pay off a loan and deal with that as part of their business operation. I hope the government will look at that.

Mr. Vissers: Well, 70% of my drinking clientele have a cigarette or two. They're not back there chain-smoking. They just want to be able to enjoy one or two cigarettes over two or three hours and not have to stand outside or go home. We're social beings. We have to interact. You're asking me to put restrictions on something that the government sells to people. I'm not selling it to them. I wouldn't sell it to them.

Ms. Martel: Now you raise a legitimate issue: What do we do about tobacco? You raise a very legitimate issue.

Mr. Vissers: I didn't want to go there.

Ms. Martel: I don't want to mislead you. I'm for urging the government to look at compensation, but I am also in favour of getting rid of designated smoking rooms—no exemptions, no private clubs—and let's make sure we're protecting people from second-hand smoke. I don't want to mislead you into thinking I have a different position.

Mr. Vissers: I understand yours. I hope you understand mine.

Ms. Martel: Yes, I do. Thank you.

The Chair: Thank you for your presentation before the committee.

OTTAWA PUBLIC HEALTH

The Chair: I would ask Ottawa Public Health to come forward, please. There's been a change in the agenda, for committee members.

Dr. Robert Cushman: Thank you very much for allowing the change.

The Chair: Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

Dr. Cushman: My name is Robert Cushman. I'm the medical officer of health for the city of Ottawa. We've been at this for some four years with great success, with much thanks to Phil McNeely and Madeleine Meilleur, who were councillors around the city hall table when we started.

First of all, let me congratulate you on this effort. I think it's tremendous, but I would caution you. Cuba is thinking about this, Ireland has done it, and you may actually be the sixth province in the nation. And Quebec

is moving very quickly. I would hope that you would really go for the gold standard. You have an opportunity here to really make a difference, because this is the number one preventable disease out there, and in a system that's being bankrupted by health care costs, we have to do something.

I'm glad this is an economics committee, because this is really all about economics. If it had been a health committee, I would have had to rent a few tractor-trailers to bring the evidence in. So I'm delighted it's about finance and we can talk about that.

We've had very good luck in our city. I think one of the issues is that there have been no second-hand lungs in our city—not for workers and not for patrons. The concept of a level playing field is very important.

Having said that, I'd like to look at the designated smoking room issue. First of all, they don't work; that's very clear. Secondly, they're expensive. As one local restaurateur said to me during this, "Dr. Cushman, deal with this at the door. You make the tough call, and then we'll deal with it and it'll be fine." And in fact that's what's happened in our city. We've had 100% compliance. We've done very well.

It's a problem with the level playing field, because if you do have designated smoking rooms, you subject workers to smoke. There's no doubt. They're going to be in there. The stuff lingers. They have to clean it. They'll end up serving. You can't supervise it all the time. These don't work. It's very difficult to enforce a bylaw. You get into a situation like Quebec language laws: Is it inside? Is it outside? There are a number of issues.

Also, I sympathize with some of the problems that have been mentioned by the earlier speaker, but I would be careful. When someone says, "It cost me"—I notice there was a figure last fall of \$400,000 to build a designated smoking room. Make sure that \$350,000 of that wasn't for the renovation of the site and \$50,000 for the ventilation. So be careful of inflated costs, because this industry is very skilful in how they get false information out on to the block. There's no industry like this industry.

The other thing I'd like to mention is Heather Crowe, who's certainly in our city. This is the business about workers. She did have some protection from the Workplace Safety and Insurance Board, but I would be very careful, as legislators, as politicians around the table and as employers, because if we see more Heather Crowes, I would think there will be large lawsuits. If jurisdiction X had protected this particular person but jurisdiction Y had not, I would argue that you're going to be very vulnerable in the courts.

On the economics side, we've seen the latest, the PUBCO science. They went all the way to Florida to get this report. I must say Florida is probably the only place in the western world these days where you don't have a free election in the 21st century. You can have it in the Ukraine but not in Florida. So be very careful. Here's my local newspaper saying, "Ban hurting bars." No way. They went around and checked. In fact, probably the

dingiest bar in Ottawa, which has closed recently, one of the gentlemen who's been bragging about this report was the former owner. He may claim he got put out of business by the bylaw, but the scuttlebutt on the street was that his sister was very fed up with his business ways and kind of told him to get out of town. Now he's working for PUBCO and he's probably got a three-piece suit on.

I'll just leave you with that, but there's no doubt, I think the fundamental economic law—I'm an economist by training, actually. If 80% of the people in Ontario don't smoke, that means something from an economic point of view. I would argue that 80% of the people who don't smoke probably have 90% of the money, because smoking is so tied in with poverty. You've got to have a real niche market when you're going for only 10% of the disposable income. To me, I think that's the crowning point when it comes to economics.

My last point is about the point-of-sale advertising. This is where Ontario can make a difference. There's no doubt that what kids see when they go into a corner store is the power wall. Kids think that a lot more people smoke than actually do because of this. Kids who are seven or eight years old can name the major brands of cigarettes. Tobacco companies are not allowed to advertise, but they're spending more money than ever, and this is where they're spending the money. So please deal with this. This is death on display.

I'll just wrap and say thank you very much. This is the way to go. Everybody's going this way. Up the bar a little more, have some courage to do what's right, to go where the science is, both the medical science and the economic science, and have a level playing field. And you know what? This is a vote-getter too.

The Chair: This round of questioning will go to the government.

Mr. John Wilkinson (Perth–Middlesex): Thank you, Dr. Cushman. How long have you been the medical officer of health?

Dr. Cushman: A little over eight years.

Mr. Wilkinson: I would assume then that around this table you know more about this topic from a professional point of view than anybody else here. This is the thing I'm struggling with: My colleague Mr. Barrett of the official opposition—and I can understand his political reality, given his riding. But it seems that many of our people have been grilled on this question: "Can you show us a death certificate that says 'cause of death: smoking' or 'second-hand smoke?'" As a professional and someone who's an expert, I was wondering if you could help us deal with this question. In your professional opinion, Doctor, does smoking contribute to premature death and illness? Does second-hand smoke contribute to premature death and/or illness in our population?

1050

Dr. Cushman: Sure. As I said, I didn't bring the tractor-trailer trucks of the evidence. This has been reviewed by systematic reviews by leading scientific agencies around the world and, by and large, the information

is very conclusive. Occasionally you get a situation where a tire sort of falls off a vehicle. In North Carolina there was a judge who happened to be a former tobacco industry lobbyist who was able to—I don't know—cast some aspersions on one chapter in an encyclopedic volume.

This has evolved since I started doing this. More information has been coming out all the time. We know now that if you are exposed to second-hand smoke in this room, your platelets get very sticky very quickly. This puts you at increased risk of heart disease and stroke. In fact, there are people now who feel that choking incidents in restaurants have been acute coronary events due to second-hand smoke. We know that if you have a cigarette, the artery constricts and the blood pressure goes up, so we see very immediate effects. In pulmonary function tests, some very good work has been done with bar workers to see that their respiratory functions change.

So we know it from symptoms; we know it from investigations; we know it from signs. You can see this—it's dramatic. You can produce an effect in minutes, and oftentimes it takes a long time to go away—for instance, an allergenic exposure, something like asthma, which some 10% of the population may be susceptible to. When you move on from that, we know that in chronic lung disease, heart disease, stroke, all these issues, there's lots and lots of evidence not only in terms of illness, hospitalization, costs of hospitalization but also death.

You've got to remember, this is epidemiology. This is the cornerstone of medical science. No, we do not say "died of tobacco smoke" on a death certificate. We'll say "died of a heart attack" or "died of a stroke." But we know, from the risk factors, we know from certain situations—the analogies would be asbestos or cholesterol—that this is very well defined and very well accepted in the literature. There are volumes and volumes of this material, and it has been shown with systematic reviews done from continent to continent, country to country. There's no doubt about it.

I think the walking proof of this is Heather Crowe, who never smoked in her life. She's fighting cancer—with some success, God bless. But that's the difficult road there is to hoe. To me, it's clear. It's widely accepted.

Fewer and fewer people smoke. We're finding that the dangers of second-hand smoke are more than we had first thought because in the old days there was so much smoking going on that it was hard to differentiate, but now the exposures are clearer because there's less smoke and, over time, we're seeing more and more research. In the medical literature we've seen really good, solid evidence for this for probably some 20 years.

The Chair: Thank you for your presentation before the committee this morning. We appreciate it.

Mr. Wilkinson: On a point of order, Mr. Speaker: Just for the interest of all the members of the committee, I would refer them to the binder prepared by the ministry. There is the fact sheet Health Effects of Second-Hand Smoke. I know that one of our members, Mr. Barrett,

was looking for the science. I believe there's a very extensive list here and I'm sure that he'd be interested in reviewing this. Since it seems to be an issue you wanted to raise, it seems to be right here. It should be in the binder. Thanks, Dr. Cushman.

Dr. Cushman: May I leave this?

Mr. Wilkinson: We saw that yesterday. It's very good.

Dr. Cushman: Oh, you have it. OK.

The Chair: I believe that research also supplied some information on that prior to the—

Ms. Anne Marzalik: No; will be.

The Chair: —will be supplying some information on that particular point.

PHYSICIANS FOR A SMOKE-FREE CANADA

The Chair: I would now call on Physicians for a Smoke-Free Canada to come forward, please.

Ms. Cynthia Callard: My name is Cynthia Callard. I am executive director of Physicians for a Smoke-Free Canada. I'm not a physician. I was hired by our membership to work on policy development. I've worked on tobacco issues since 1985. I've also worked on other issues, but I've been round the block.

When I first planned to come here, I was hoping to implore you to move forward with a complete ban on display at retail, but I listened to the testimony yesterday and I thought it might be more useful to your deliberations if I were to go over what happened in British Columbia, because I was hired by the British Columbia government for six months in 1998 as a technical adviser on their tobacco control strategy and I'm quite familiar with what went on.

It's important for those of us who live in Ontario to understand that BC is quite a different place. One of the many ways in which they're different is that their Workers' Compensation Board is responsible for labour code issues. This is pretty unique in Canada. Quebec has a somewhat similar thing. Whereas in Ontario the labour code standards are set by a Legislature like yourself through a ministry, through cabinet, in British Columbia it's done by an arm's-length agency.

This arm's-length agency sat down in the early 1990s and said, "Why are we protecting some workers from these chemicals but we're not protecting all workers? Why are we protecting them from chemicals in smelting plants but not from second-hand smoke?" They brought in a regulation which took effect in April 1998 that protected all workers from second-hand smoke, but they gave a phase-in period, a sunset clause for the hospitality sector to adjust.

In 1998 there were no smoke-free places anywhere in Canada. The first one was actually in Victoria the following year. No one had any experience with this. The British Columbia government of that day was not thrilled that an arm's-length agency was coming up and presenting them with this terrible political headache. They were

fighting big tobacco, but in their mind their message box was, “BC fights big tobacco”; it wasn’t smoker versus non-smoker. This was going to take them off-message, and they really didn’t like it. However, they accepted the logic and they accepted that the WCB had the authority to do this.

The tobacco industry funded a court challenge to the regulation and the regulation was thrown out. Although it came into force in January, it was thrown out in March 2000 on a procedural process basis. The WCB put in a new process, had new hearings and announced a new regulation the following March, which was to take effect in September. Something happened in those months: There was an election; the government was overthrown.

The new government didn’t like the regulation and decided that it was going to interfere. It told the WCB to suspend the regulation, and the WCB said no. They fired the WCB panellists and put their own political appointees in place and they set up a parliamentary hearing to look into it. Their parliamentary hearing came back with a proposal which they told the new WCB that they should implement. The WCB again said no. The government imposed its own regulation. It’s a regulation that allows for DSRs, but they’re not designated smoking rooms like you’ll see in some places. They’re really just areas. There’s no requirement for walls or anything.

It’s not true that throughout British Columbia there are these open spaces, because some of the municipalities had passed laws. One of the fact sheets I circulated was a description of the various laws that are in place, but many British Columbians live in areas where there are complete bans on smoking, like those that are proposed here and that we would support; some have laws that are what would be considered a silver standard. In effect, it’s a rural-urban split. In the rural areas people are not protected from second-hand smoke; nor are workers. So what has been established is that there was political interference in a regulatory process that was science-based and used by tripartite negotiations between employers and workers, and the political interference ended up in having second-class workers or workers who did not receive the full protection.

The ASHRAE standards that were referred to are the antiquated ones. ASHRAE no longer gives ventilation standards for second-hand smoke. They say that it is not possible to put the air to a healthy level. The ASHRAE standards that were brought in were those from a couple of decades ago. That’s a little bit like someone saying, “We use the same machines and technology as the Mayo Clinic,” without telling you that it was like the Mayo Clinic standards of the 1950s. It’s a false kind of validation.

1100

Enough of the history lesson; I want to give a quick math lesson. Yesterday we heard that the Korean Businessmen’s Association’s 3,400 members received \$5 million in payments. Then someone was there saying that they’ve received \$20,000 a year, and another person was there saying they’ve received \$18,000 a year. My math

isn’t fantastic, but if I multiply that, it tells me that their association—if those are average payments—would be getting \$68 million, across them, which is almost all of the \$90 million that’s reported by the tobacco companies to Health Canada as what they pay for these promotional displays. Ninety million dollars divided by the number of retailers who are reported to receive them is an average payment of about \$800. There are three manufacturers, so we’re probably dealing with a maximum annual payment of under \$3,000. Obviously, if some retailers are getting \$20,000, others are getting none, or the math wouldn’t work out, but it’s important to understand that what’s being dealt with here for some individuals might be very high, but on an average basis, it’s not.

Another math lesson is that if we’re getting rid of tobacco, we’re going to get rid of the profits from tobacco sales. If we want to keep corner stores in the business of selling tobacco, we’ve got to figure out a way of giving them the profits and not having the cigarettes smoked. It is a difficult challenge, but I think it’s something we have to accept from the get-go, that there are going to be jobs lost.

One of the problems is that we’ve had a reduction in smoking rates and smoked tobacco use of about 20% in the last five years. That shouldn’t be a problem; that should be something we’re celebrating. But the problematic part is that people haven’t sat and said, “This has consequences. It has consequences for tobacco farmers. It has consequences for advertisers. It has consequences for the business sector.” I hope that we’ll continue to have that kind of success and that in the next five years we’ll also see another 20% reduction. If we continue at the pace we’re going now, smoking will be removed by about 2025. This would be a glorious thing, but it means that there will have to be adjustments, and I think the government has to look to adjustments and a way of doing it.

The risk of not doing that is to be held hostage and to have very important initiatives held hostage for the economic interests of what are relatively a handful of people. Even if there are thousands of retailers, the net impact on jobs is a handful, and a paltry number compared to the number of people that are hurt.

Another issue on numbers, a quick math lesson, is that because smoking rates have been going down so much, people think there is more smuggling than there is, because they are losing their business. So naturally they think, “Well, someone else is picking up the business; the business is being lost.” There is smuggling; I see smuggling in my own neighbourhood. I know there’s smuggling, but smuggling isn’t the main reason for the drop in sales. The reason for the drop in sales is because the health programs are working. Health programs like health warnings and smoke-free spaces have an incredible impact, like higher taxes. Finally, we have restrictions on advertising. It took us about 15 years to get those in place. So we should be celebrating, in my mind, the successes we’re having, and planning for future successes, instead of fighting a rear-guard action against those who are benefiting economically.

The Vice-Chair (Mr. Phil McNeely): Thank you for the presentation. The question goes to the official opposition.

Mr. Barrett: The British Columbia legislation has come up. You said you were at the hearings yesterday as well. The legislation, as I understand, does allow designated smoking rooms, and employees, workers—actually, Mr. Perley presented this yesterday—cannot spend more than 20% of their shift in such DSRs. Were you saying that in British Columbia, the legislation isn't being enforced in some parts of the province where there aren't DSRs, or they are smoking in—

Ms. Callard: What they call DSRs are not sealed rooms; they're just areas. There's no requirement for there to be a wall or a door, so they can call it a designated smoking room, but it's like a foyer. In many parts of the province, municipalities have either brought in laws that have real designated smoking rooms with separate ventilation or have brought in a complete ban. So it's not true that in British Columbia there's only one scenario.

Mr. Barrett: Certainly, my definition of a DSR is a ventilation system with a wall around it. It doesn't matter whether the door is open or not, because with the negative air pressure, the air is coming into the DSR and then out through the fan. I thought that with provincial legislation, they would have pinned that down other than just an open space where one side is a DSR and the other is not. That's certainly new information for this committee.

And again, you said there was political interference. That would have been when the Liberal government came in? We know that this reversal was done by the BC supreme court, so was there political interference?

Ms. Callard: No. The reversal of the first law was by the BC court on the basis of the process. They said that the hospitality sector had not been adequately heard. It was not on the basis of the regulation. So the worker's compensation board had a new set of hearings. It was extensive; I think they met in six cities over several days. They met, deliberated again, took about eight months, and developed a new regulation. That regulation was not thrown down by the courts. It was overthrown by the cabinet.

Mr. Barrett: Oh, I see. The first time, like you say, March 2000, the hospitality industry took the workers' compensation board to court, and they won.

Ms. Callard: I have a chronology here which perhaps I could leave with the clerk. I just had a friend fax it to me last night, and perhaps that could be circulated to you later.

Mr. Barrett: You also mentioned the Korean businessmen. I guess they're not here today. But you indicated that we also, as a society, as a result of some of this and the amount of money they're losing—and there are different figures, and of course not all stores are run by Korean families—need to figure out a way to give the corner stores profits. Do you have any suggestions for the Ontario Legislature? You know that 60% of their sales are tobacco.

Ms. Callard: That's actually another little mess. Sixty per cent of their revenues may be tobacco, but not 60% of their markup. A carton of cigarettes cost \$60, approximately. Their markup on a carton of cigarettes is three to four dollars. The average amount they get for retail display is about 50 cents per carton. If they wanted to replace the promotional revenue just by increasing the price of cigarettes, on average that would be about five cents a pack of cigarettes. So it's very misleading to talk about the percentage of revenues when much of it is just flow-through of federal and provincial taxes. It gives a completely distorted picture of the importance to their business.

Nonetheless, for someone who's a tobacconist, if tobacco goes out of business, they have a problem the same way that someone who sells typewriters has a problem when everyone switches to computers. These are business shifts, market shifts. There are many things that are sold now that weren't sold when we first put tobacco on the open market. There are many other products available for sale, many services available for sale. I think this is the nature of an open marketplace.

Mr. Barrett: OK. I will say a carton costs \$60. In my riding a carton costs \$25, so five cents isn't going to influence the marketplace that much. As you would know, there is an underground economy, and the Koreans, for example, are competing with people who do not follow the rules. So this is another issue, and it doesn't seem to be addressed by government. It's not hard to buy a carton of cigarettes for \$25, and they don't ask for age.

Ms. Callard: Hopefully, the retailers whose concerns you are taking into consideration are not those who are selling the illegal \$25-a-carton cigarettes.

Mr. Barrett: No. I'm talking about smuggling, and this is an issue that is not being addressed. Smuggling is a result of government policy over the last year and a half. We've seen three tax hikes. That's one reason a carton does cost \$60. If you don't pay the tax, you're paying \$25. Those are for sale, and I don't know whether your organization has any thoughts on that. I'm not aware of people being caught or arrested that much.

Ms. Callard: Smuggling is an important issue, and there are proposals around for ways of better managing it. It's certainly a cause, but there are a million fewer Canadians who smoke than five years ago. Every year 100,000 Ontarians are quitting smoking. This is the major cause of loss of business.

Mr. Barrett: We have those government statistics, but they don't take into account the underground economy, because they don't pay tax; they don't send in their reports to Statistics Canada.

1110

Ms. Callard: In fact, if these surveys that are done when they phone people's homes and say, "Do you smoke?" and people say yes or no, and then they say, "How much do you smoke?" and people say, "I smoke a pack a day," or "I smoke half a pack a day," when you do that math, it jibes with the official figures. We have

surveys every year across Canada, massive surveys, that measure how much people say they're smoking, and we have tax receipts for how much they're actually selling. Yes, there is a gap, but the gap is not growing that much, and the gap is not that significant a contributor to the loss of business.

The Chair: Thank you for your presentation this morning.

DELTA BINGO INC.

The Chair: Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to state your name for the purposes of our recording Hansard.

Ms. Carol Newman: Good afternoon Chairman, committee members, ladies and gentlemen. My name is Carol Newman, and I am with Delta Bingo Inc. I speak to you today on behalf of all the operators and employees in the bingo industry, but most importantly, on behalf of all the charities that conduct bingo events in the province of Ontario. For your information, I have personally been involved in this industry for over 21 years, originally as a charity volunteer, and in the last 10 years as an employee for Delta Bingo. I know the bingo industry, and as I have continued to volunteer on behalf of the charities, I know first-hand the challenges faced on a daily basis in order to raise funds for the common good of us all.

We understand the position of the government, in that you have been charged with the task of creating a law that would benefit the residents of Ontario, and we want to assure you that we are not here today to debate the health issues associated with your decisions. However, we feel that in your deliberations you have overlooked the bingo industry, which is quite unique as compared to any other venues. A 100% ban on smoking in bingo halls would be a financial disaster for the charities of Ontario.

Bingo in the province of Ontario employs over 4,200 people, supports over 4,000 charities, which equates to over half a million volunteers, and generates approximately \$100 million in profits which are distributed directly to local charities. While we continually make predictions in the market to allow for adjustments that directly affect our industry, a 100% ban on smoking is the single greatest threat this industry has ever faced, and it will be the one threat to ultimately destroy the bingo market.

Bingo halls are a unique environment, as actual bingo events are conducted by charity organizations, and the profits derived go directly to the charity groups which, in turn, directly benefit the community or area they're from.

Over the years, bingo halls have responded to the needs of their customers, volunteers and employees, and most have made continual upgrades to the halls, which include creating designated smoking rooms, or DSRs. These DSRs are rooms that are separated from the rest of the hall and have separate ventilation. The air from the non-smoking section flows to the smoking section where it is mixed with outside air, and then the air from the

smoking section is exhausted directly to the outside. A negative pressure is kept on the smoking side, so that whenever a door opens between the two, no air ever enters the non-smoking section. In fact, the same type of ventilation technology is used in mines and hazardous materials laboratories.

This design ensures that only the people who choose to be in the smoking section are around the smoke. The non-smoking section also contains entrances, offices, snack bars, washrooms, sales areas and bingo callers, which allows for the majority of the labour necessary to conduct these events to be done in the non-smoking sections. Such a set-up permits us to provide an optimum environment for our non-smoking customers, in which they never, ever have to set foot in the DSR, as all facilities are available in the non-smoking section, and, at the same time, it allows our smoking customers to partake in like entertainment in an environment that accommodates their requirements.

In most locations, these DSRs accommodate 65% to 70% or more of our customers. The issue is not black and white. Up to 70% of the bingo players smoke, and such is the nature of any gaming industry. Smoking is deeply ingrained in our social and economic culture. Most of our halls don't even sell cigarettes, so we don't promote the habit. However, while only 30% of the population may continue to smoke, that represent almost 70% of our customer base. As well, the legal age to play bingo is 18, so there is not an issue with youth having access to or being in the smoking sections.

In areas where current smoking bans exist due to local municipalities being given the authority to implement such bans, there have been hall closures and huge negative financial losses to the charities that once conducted bingo events at those locations.

Municipalities that recognize the detrimental effects such a smoking ban would cause may have allowed DSRs. These DSRs meet specific criteria set by the public health department, and therefore, operators were legally permitted to use the DSRs and were told that the DSRs would be available for use until approximately 2010. My company, with the approval of the regional government, had to complete everything by May 31, 2004, in the Niagara region, at a cost of \$600,000 for four locations. That investment created approximately \$5 million in profit for charities in the Niagara region. The bingo industry in the province of Ontario as a whole, where allowed to do so, has spent millions on DSRs, and those millions of dollars have translated into continued profits for the charities of Ontario.

If a 100% smoking ban is put into place, we expect to lose approximately 40% of our customers. The majority of that 40% will never return, which equals 80% of our profits. These customers will continue to smoke but will just do so elsewhere and take their money with them. Non-smokers will not come to make up the difference. We have a provision for them now, and they're not coming.

Charities that operate bingo events and raise the funds for their programs vary widely and include health organ-

izations, youth organizations, schools, churches, service clubs, cultural organizations, sports organizations etc. You only have to look around your own communities for examples of the valuable services being offered by these charities. The loss of the millions of dollars to these charities is frightening. This would result in schools without computers, software programs and subsidized field trips. Imagine health organizations such as St. John Ambulance, Canadian Red Cross, Canadian Mental Health Association and Heart and Stroke Foundation without the necessary funds to administer services from which we all benefit; youth organizations, whether they're social or sport-oriented, without the bingo profits that make it possible for the children of this province to participate in their programs; multicultural organizations, Legions and churches without the funds to operate—and the list goes on. More importantly, the government would not be able to absorb the programs offered by all of these charities, and could not reimburse the charities for the huge financial losses.

We know the government recognizes the importance of charity involvement in this province, and we need you to help grant us the means necessary to continue their important work. We are merely asking that we be allowed to provide an environment where both non-smokers and smokers are mutually accommodated, without one affecting the other, and where both can enjoy the same type of entertainment while not affecting the much-needed profit for charity groups. Designated smoking rooms will accomplish this and accommodate the current customer demand, and as that demand reduces, so will the use of DSRs.

At the very least, an amendment to the bill being proposed that will grandfather in existing DSRs for a period of time of no less than five years would allow the charities and the industry the time necessary to develop new strategies required to deal with the loss of customers, loss of profits and allow charities the time to reorganize their services, develop new fund-raising initiatives and whatever else may be necessary to ensure that these charities continue to provide their irreplaceable and much-needed services.

In closing, I would like to thank you for allowing me to present to you this morning, and I welcome any questions you may have regarding the content of my presentation. As an option, you may also speak to the member from Niagara Falls, Mr. Kim Craitor, who for over 15 years has been a bingo volunteer with a charity in Niagara Falls, understands the issues presented today, and supports the inclusion of DSRs in Bill 164 for bingo halls. Thank you.

The Chair: This round of questioning will go to the NDP.

Ms. Martel: I appreciate the presentation you have made to us. I guess I need to offer you a different position, and hope that what has occurred in my community, which is Sudbury, would occur in Niagara Falls after the passage of this bill. I want to be upfront with you and tell you that I'm a supporter of a complete ban, that there be no exemptions: not for bingo halls, not for

charity casinos, not for Legions etc. I can only use the experience that has come to pass in our own community, because in my own community of Sudbury, when the smoking ban was put into place—and it's been in place a couple of years now—there were no exemptions: not for bingo halls, not for the Legions, not for anybody. It was a 100% ban in all workplaces.

I have to say that since that time, I have not been approached by any charity that was operating in any of the bingo halls to say that they had lost money, that there were no funds available and that they were needing financial assistance from another venue to make up what they had lost from the bingo halls. That's been our experience. I hope that the experience we've had in our community is going to be an experience that is repeated. I have had no communication with any of the charities to suggest that people aren't still coming to the bingo halls and aren't still supporting those charities by being at the bingo halls the way they did previously.

The second point I would make, then, is that if indeed the experience is different in other communities, I would hope that the government would look to supporting those charities directly and having consultations, public hearings and negotiations on how, if that does happen to individual charities who do good work—and I think we all recognize that—through the Trillium Foundation or through other mechanisms, the government is doing some work to try and supplement those charities directly. I can only relate to you the experience in my community, and Sudbury's got a huge population of 140,000. Not once since the ban have I heard any charities come to me to say, "We need a DSR. We need this reversed, because we have lost income and can't support the good work that we did before."

I just wanted to relate that to you. I'm not here to try and challenge you, because I appreciate that you've come forward. You've been involved in the industry, but I'm only here to say that I hope the experience we've had is going to be one that's repeated when this bill is passed. I welcome any comments that you want to make.

Ms. Newman: The only comment I want to make is that I'm sure that there has been a negative impact, and I'd be quite happy to send the information on to you. In Niagara Falls, for example, prior to even the allocation of DSRs, we had three bingo halls. I am now the only bingo hall left in Niagara Falls. We have two casinos in Niagara Falls as competition, one in Fort Erie and one in Niagara Falls, New York, which is opening up bingo in the next 30 days, from what I've been told. Therefore, being the only bingo hall, and now having 91 charities that used to share in \$5 million in profit now sharing in \$2 million in one location, there will be a very disastrous effect. In Ottawa, Kitchener-Waterloo—any of these areas—the results have been disastrous as well. It's great that maybe you haven't heard of it in Sudbury. I have to admit that I really don't know that area particularly, but I'd be happy to check that information.

Ms. Martel: Can I ask you if some of the change in patrons going somewhere else is people going from a charity bingo to the casino instead to gamble?

Ms. Newman: No. The reason that some of the other halls closed was the expense of creating DSRs. There is a huge expense, because it does have to be a totally separate room with a separate ventilation system that works according to the guidelines of the public health department—two closures because of the costs associated with doing that.

Ms. Martel: I should tell you—I said this yesterday and I'll repeat it today—that in my support for this bill, I've also said very clearly that I recognize that there are municipalities, and within them, owners of either bars, charity casinos etc. who, given the bylaw that was in place, made a financial decision to make an investment in a DSR because they believed that they would have a time frame in order to recoup that. In fairness to those people who made that investment, who have a loan and who figured they would have time to pay for it and may not now because the time has been shortened, the government should look at compensation for those individuals. I think that is an issue of fairness. That doesn't change my position in terms of saying that I think there should be provincial legislation and there should not be exemptions, but I think that the government has to recognize that people are out of pocket for money and look at how we deal with that.

Ms. Newman: The only other comment I'd like to make, when you're talking about compensation to charities via the Trillium Foundation and what have you, is that, first of all, there are a lot of charities that operate bingo that would not be eligible under the Trillium program. Churches, for example, are a big one. Second of all, being experienced with grant requests sent to the Trillium Foundation, there are certain categories. Your group falls into a category, and you then fall in with everybody else in that. So while I may currently have 10 sports organizations, one or two of them may qualify under Trillium for this year; the rest have to wait till next year. Right now, they all get money every month.

Ms. Martel: I'm not suggesting that the government wouldn't have to look at changing the criteria; I suspect they would. If there's going to be a policy developed that says, "We are going to look at how we support charities as a consequence," they're going to have to look at those criteria as well.

The Chair: Thank you for your presentation before the committee today.

Carole Madeley? I understand the presenter is in the building but is not prepared to come before the committee. We are ahead of schedule. We'll recess until she appears or until the noon hour, whichever is first. Please stand by.

The committee recessed from 1124 to 1129.

THE LUNG ASSOCIATION

The Chair: We appreciate you appearing before the committee slightly ahead of schedule. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I'd ask you to state

your name for the purposes of our recording Hansard. You may begin.

Ms. Sandra Harris: Hello, everyone. My name is Sandra Harris. I'm here today from the Ontario Lung Association. I am the area manager for the Durham, Kawartha and Haliburton areas. Thank you for your time speaking to you today.

The Lung Association is one of Canada's oldest not-for-profit organizations. Our mission is to improve lung health. We focus on three main areas: asthma, indoor air quality and tobacco-related lung disease, such as chronic obstructive pulmonary disease, otherwise known as emphysema and chronic bronchitis. Our primary work involves medical research, public education and the promotion of healthy living.

The Lung Association would like to begin by commending the government of Ontario for bringing forth smoke-free legislation. This legislation stands for health and means a great deal to the people we serve who live with lung disease in our communities.

One of the Lung Association's leading objectives is to prevent young people from ever starting to smoke and to help them quit if they do smoke. The Lung Association promotes smoke-free air in the workplace and actively supports legislation to regulate and/or prohibit smoking in public enclosed areas. We also work with public health officials, hospitals, universities, community groups and other health agencies to protect the air we breathe.

The Lung Association is strongly in favour of a 100% smoke-free Ontario, and we urge this committee to take back our recommendations. We ask that, once the smoke-free bylaw is passed, the province provide a proper budget to effectively educate and prepare the public for the legislation as well as provide sufficient enforcement upon its implementation.

There are a few key things I must mention as I speak on behalf of the Lung Association that are of utmost importance to us.

The Ontario Lung Association urges the government to protect youth from tobacco advertising by prohibiting tobacco promotion at all points of purchase with no exceptions, including retail promotional displays such as power walls. These displays are visible to young and old, to smokers and non-smokers. They're inconsistent with the tobacco industry's claim that they only promote to adults.

The Lung Association does not support ventilation of any kind as a solution to the second-hand smoke problem. There is only one way to eliminate second-hand smoke from indoor air, and that is to eliminate the source. We strongly urge all MPPs to uphold the government's current intention to eliminate all designated smoking rooms in hospitality premises as of May 31, 2006. We also recommend that the allowance for designated smoking rooms in long-term-care facilities be removed from Bill 164. We need to protect the workers who attend to residents living in long-term-care facilities.

I would now like to turn the floor over to Carole Madeley, a regional respiratory therapist who works with

Lakeridge Health Corp. She can speak to us from a medical standpoint and her day-to-day work with people living with lung disease in our communities.

I'd like to thank you for the opportunity to speak with you today. And please remember: When you can't breathe, nothing else matters.

Ms. Carole Madeley: Thank you for allowing me to speak today. My name is Carole Madeley. I'm a registered respiratory therapist. I've been working in the Durham region for the last 23 years, and I'm presently employed with the Lakeridge Health respiratory rehabilitation program.

Respiratory rehabilitation is a comprehensive education, exercise and psychosocial support program for people suffering with COPD, chronic obstructive pulmonary disease. Most of you might be more familiar with chronic bronchitis and emphysema. Ninety-five per cent of COPD is caused by cigarette smoking. There is no doubt about that.

COPD is a slowly progressive lung disease. As the disease progresses, the person experiences reduced quality of life due to limited activity and increased breathlessness. Patients with COPD use many health services, including ambulatory care, hospitals and medications. The projected increase in cases will place major demands on our health care system and a significant cost on our society.

In 2000-01, COPD in-patients' cost alone was \$107 million in Ontario, and there were 40,000 ER visits across Ontario. In Ontario, COPD is a major cause of death and disability. Three thousand, three hundred and ninety-three Ontarians succumbed to COPD in the year 2000.

Durham region hospital admissions for COPD are higher than the benchmark when compared to other Ontario hospitals. In 2003-04, Lakeridge Health Corp. had 525 hospital admissions with a main diagnosis of COPD. With an average length of stay of 8.25 days, this cost our local health care system \$3.5 million. COPD is the fifth leading cause of hospital admissions at Lakeridge Health Corp.

The percentage of daily smokers in Durham region is higher than the provincial average, and over a quarter of Durham adult residents continue to smoke.

Upon hearing the detrimental health effects and astronomical costs I have outlined, I hope I leave this committee with the knowledge that there are simply no alternatives and no exceptions to 100% smoke-free that don't compromise the health of us all.

I would like to thank the panel for their time.

Mr. Reginald Lyon: My name is Reg Lyon. I'm 71 years old. I smoked for about 35 years. As a consequence, I have a companion here. To emphasize the difference between not being able to breathe and anything else, I can walk in a mall and somebody on crutches can speed past me like he's going 100 miles an hour to what I am walking. Not being able to breathe is an unbelievable consequence from smoking. I can't jump in my car and say, "Well, I'm going to Niagara Falls; I

have five hours here." Or it means I can go to Niagara Falls and I can turn around and come right back, but I can't do anything else.

If I struggle too hard, there's a kind of delayed reaction in the breathing problem where all of a sudden I find that I am now absolutely gasping for breath and struggling away because I've over-exerted myself and the delayed reaction kicks in. It's hard at times to calculate when you have gone past that point of no return. That's why I suppose that a lot of people with my problem are hospitalized: They go through that limit and can't get back without hospital care. Other than that, I have a good quality of life as far as I'm not in a wheelchair.

One of the problems with smoke, which everybody is talking about here, is with entrances to facilities. I attend the Iroquois sports facility twice a week to watch my grandchildren swim and do other activities there, but I have to run the gauntlet of going through the entrance where people are smoking on both sides. Even though it's out in the open, it has a tendency to make me cough because of the exertion of walking to and from that facility. If I was in a wheelchair, maybe I would be better. But to exert myself, the breathing in of this second-hand smoke, although I do not begrudge smokers their cigarettes—I enjoyed them myself for many years, so I know what they're going through. It is a problem for people with my affliction to walk through this gauntlet, as I call it, twice, by going in and coming out. I sometimes wait inside or outside until somebody has put their cigarette out so that it's not so much. It really is a problem going to these facilities, even malls. Everybody stands outside the doors. You can't get by it.

Anyway, I hope I've enlightened everybody on what COPD is. I have emphysema. I can't say too much more; I'll keep you here all day. Thank you for listening to me.

1140

The Chair: Thank you. I think you've made your point. We will now move to questioning, and this round goes to the government.

Mr. Fonseca: Thank you, Mr. Lyon, for that testimonial and your presentation, and thank you, Ms. Harris and Ms. Madeley. These testimonials are so important as this committee goes to different municipalities. I know Mr. Barrett often asks for the evidence and what the coroner's report says: Does it say "smoking" on the ticket when somebody passes away due to a smoking-related illness? To have the testimonials here around the effects of smoke and tobacco on individuals, it's very important that the public hears this. We thank you very much for your comments today.

COPD: Ms. Madeley, I think you brought up that 90% of COPD patients are due to—

Ms. Madeley: I brought that up; 95% of the causes of COPD is cigarette smoking, and there is no doubt about that. Another 4% would be due to industrial air pollution. The other 1% is an inherited form of emphysema called alpha-1 antitrypsin deficiency, but only 1% of the population has that. It's a genetic problem.

Mr. Fonseca: I want to thank the Lung Association and all the units you have across the province for the

great work you do in terms of prevention and helping those who have lung disease. There are a number of things you've brought up, like COPD and asthma, and we know that with this piece of legislation, Bill 164, we will create a smoke-free Ontario. It will also give all those who have many lung ailments, or any other, the opportunity to go into public places, into workplaces, and not feel they're going to have an attack that could be fatal, and will make sure those are safe environments for everybody around the province, knowing that DSRs are not effective. Studies have shown the leakage from that smoke could trigger one of these attacks.

You brought up the prevention issue, and particularly youth. Minister Smitherman wanted to make sure that our tobacco strategy focused on youth, because the best way to stop somebody from smoking is to make sure they don't start in the first place. We know that big tobacco is spending multi-millions of dollars to prey upon our youth to get them to start smoking. I know you have a number of youth campaigns running throughout the province and I congratulate you for that. We wanted to make sure youth were really heard in this campaign.

This campaign was put together—many may have seen it; it was the stupid.ca campaign. The word was not something we came up with; it was something youth came up with. It was a campaign made by youth, for youth. There were a number of focus groups around the province—I think about 500 youth were involved—and then a committee of 12 was put together. They helped in terms of developing, through a group called Youthography, a number of commercials. I was wondering if you saw those commercials and maybe some of the feedback you got from the youth you see on a daily basis.

Ms. Harris: We've most definitely seen the commercials, and we commend the government for taking on that project. Our information shows us that if the messages are delivered by youth to youth, they ring much more true to them.

We're doing a lot of work in the area of youth prevention when it comes to tobacco and trying to prevent young people from ever starting. We certainly did get a lot of positive feedback on those advertising campaigns. The Lung Association itself has recently launched one concerning second-hand smoke and young people called Secondhand Blows! It's a follow-up on your campaign as well. So we thank you for that. It is effective advertising; we know that.

The Chair: Thank you for appearing before the committee this morning.

For the committee, lunch will be next door. The room will be secured, but we suggest you take any personal belongings with you. We are recessed until 1 o'clock.

The committee recessed from 1145 to 1300.

COUNCIL FOR A SMOKE-FREE DURHAM REGION

The Chair: The standing committee on finance and economic affairs will come to order. Our first presenter

of the afternoon is the Council for a Smoke-Free Durham Region. Would you please come forward. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard. You may begin.

Ms. Carolyn MacDonald: I'm Carolyn MacDonald. I'd like to thank the chairman and members of the committee for the opportunity to speak today. I represent Durham Lives! Council for a Smoke-Free Durham Region. Durham Lives! is a coalition of agencies and community members who are working together to prevent heart disease and cancer. The Council for a Smoke-Free Durham Region has been focusing on tobacco control for many years. Council members advocate to reduce smoking rates in Durham region and protect Durham residents from second-hand smoke.

The Council for a Smoke-Free Durham Region strongly supports the proposed Smoke-Free Ontario Act, Bill 164. This act will make tobacco promotional displays such as countertop displays illegal. Much evidence is available to show that tobacco promotion and advertising increases tobacco use. Point-of-sale promotions stimulate impulse purchases. The highly visible packages of cigarettes present a great temptation for occasional smokers or ex-smokers trying to stay smoke-free. Tobacco products featured alongside candy and snack foods create the impression that tobacco is socially acceptable and used more widely than is actually the case. This is especially important in preventing children and youth from starting to smoke. The council strongly supports the inclusion of power walls in the ban on tobacco displays.

The legislation will also make all public places and workplaces in Ontario smoke-free and provides a great opportunity to protect the health of all residents. Second-hand smoke is a serious health hazard. Deaths resulting from exposure to second-hand smoke are 100% preventable. Bill 164 will protect all workers and members of the public from second-hand smoke. Currently, over 50% of Ontario communities have passed their own smoke-free bylaws. This has, however, created varying levels of protection from second-hand smoke for workers and patrons, as well as youth. Bill 164 will provide equal protection for all Ontarians and create a level playing field for businesses across the province.

It is well known that there is no safe level of exposure to second-hand smoke. People do not have to risk their health in order to earn a living. We support the province in passing legislation prohibiting smoking in bars, restaurants and casinos.

Here in Durham region, our bylaw still allows designated smoking rooms in bingo halls and racetracks. Long-term-care facilities are also permitted to have designated smoking rooms, creating the potential requirement for staff in these facilities to enter these rooms. As a result, they are exposed to second-hand smoke, putting their health at risk. The only casino in Durham region has also been granted an exemption, and there is unrestricted smoking in this facility. Protecting casino workers from

second-hand smoke is no less important than protecting bar and restaurant workers, especially given that casino workers are exposed to some of the highest levels of second-hand smoke in the province. Bill 164 will protect all workers in Ontario.

We are pleased that Bill 164 will not include provisions for designated smoking rooms. Research has taught us that designated smoking rooms do not provide protection from exposure to second-hand smoke. Ventilation is often presented as an option when considering smoke-free legislation. Ventilation provides no solution to the problem of exposure to second-hand smoke, as there is no ventilation system capable of removing all tobacco smoke from the air. Scientists around the world agree that the only safe level of exposure to second-hand smoke is no exposure at all.

The Council for a Smoke-Free Durham Region commends the government for its efforts so far to protect Ontario residents from the effects of second-hand smoke. People have no choice about breathing second-hand smoke. Bill 164 will protect all workers from second-hand smoke.

Smoke-free public places are not just about protecting non-smokers. It's about helping smokers to smoke less and to quit, it's about giving positive role models to children so they don't become addicted to tobacco and it's about protecting workers so they don't have to be exposed to smoke simply to make a living.

I thank the committee for this opportunity to speak and I urge the members to vote in favour of the legislation.

I also have a letter addressed to the committee from a local Legion president which I'd like to read at this time:

"Dear Chairman and members of the committee:

"My name is Don Vipond and I am writing in my capacity as president of Royal Canadian Legion Branch #152 located"—at 56 Baldwin Street—"in Brooklin, Ontario.

"On June 1, 2004, the general membership of our Legion branch made a decision to make our facility 100% smoke-free. This has proven to be an excellent decision, as we have experienced many benefits to being smoke-free. We have found that our revenue has increased since that time. Staff members are happy because they do not have to spend eight hours in a smoky environment. Our membership has increased and we have experienced a return of members who had not visited the Legion in a long time. We have repainted our premises and received many compliments about the fresh, clean environment.

"I am in favour of the provincial government passing this smoke-free legislation.

"Regards,

"Don Vipond"

The Chair: Thank you. This round of questioning will go to the official opposition.

Mr. Barrett: Thank you for the presentation. You indicate that there's no ventilation system capable of removing all tobacco smoke from the air. I wonder whether

you have any more specific information on that, because we we certainly have been told about systems in mines, for example, and laboratories, or a computer manufacturer, where it's important to have negative pressure and to remove the air and remove any virus or bacteria that may be in the laboratory.

1310

Ms. MacDonald: I know that the research does exist about the ventilation systems and that they are not 100% effective. I don't have that research with me, but certainly we could make that available.

Mr. Barrett: If you do have a research paper, that would be useful for the committee.

Again, you make mention of the deaths resulting from exposure to second-hand smoke. I certainly contacted the coroner; I haven't received anything, as far as a death certificate or a coroner's report on deaths from second-hand smoke.

Ms. MacDonald: I can't speculate or offer that sort of research, but there's certainly research there to support that deaths are caused by smoking or second-hand smoke.

Mr. Barrett: It just hasn't been presented yet.

Mr. Fonseca: On a point of order, Mr. Chair: Just toward Mr. Barrett's question, there is the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, an international authority on setting ventilation standards. They have said that no ventilation technology completely eliminates exposure.

The Chair: That's not a point of order.

Mr. Barrett: I was hoping I had some more time left here.

In the Durham region, the bylaw, I guess it would be just last June, established designated smoking rooms in certain facilities and not other facilities. The councillors would have made this decision to have DSRs at bingo halls, at racetracks, at the casino in Durham region and in long-term-care facilities. Just reading your brief, why would they have made that decision? Is there evidence that second-hand smoke would be less of a nuisance for people at casinos?

Ms. MacDonald: I can't speculate or answer for the members of Durham region council, but certainly from the Council for a Smoke-Free Durham Region, our efforts are based on trying to protect the residents of Durham region to prevent heart disease and cancer.

Mr. Barrett: Resulting from second-hand smoke?

Ms. MacDonald: Yes.

Mr. Barrett: And if it was removed by a ventilation system, is it still your position that—

Ms. MacDonald: We're not convinced that the ventilation systems are 100% effective, so I can't answer that.

Mr. Ouellette: We heard some presentations earlier on from some of the groups dealing with bingo halls and other areas. Their concern that came forward was that—if I remember their statistics correctly—70% of their patrons who come into those locations were smokers and that a large number of charities would be negatively affected. Do you have any idea of what you would expect to take place in situations like that?

Ms. MacDonald: I can't speculate, but again, our focus is on the heart health and the cancer prevention of Ontario residents.

Mr. Ouellette: We had a presentation from Doug Finney, the president of Branch 43, who countered the opposition or the presentation from the Brooklin Legion there, regarding the numbers and the attendees. We heard another one from Jack's Saloon that said they had an increase of 240 memberships in the legion at the north end because of the change. So we're hearing different things as to how they're being affected. I don't know if you've had a chance to look and see why, in Brooklin, there was such a change in the number of increases. I don't know. I don't go up to Brooklin at all. But you read the presentation, so I wonder if you had any other reasons for that taking place.

Ms. MacDonald: No, but I'm sure each legion will have their own reasons for it taking place. I can't speak on their behalf.

Mr. Ouellette: Yes, but you did when you read—

Ms. MacDonald: Certainly I have this one, yes.

Mr. Ouellette: So I thought maybe you had some more information or some insight as to why that took place. I appreciate your presentation. Thanks very much.

The Chair: Thank you for your presentation.

SMALL GUYS TOBACCO GROUP

The Chair: Small Guys Tobacco Group, would you please come forward. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to state your name for the purposes of our recording Hansard. You may begin.

Mr. Mirsad Jakubovic: Mirsad Jakubovic. I represent the Small Guys Tobacco Group. We do not make, sell or distribute cigarettes. We are Ontario companies in the cigar business. You might think that an organization with the word "tobacco" in its name would appear before you to oppose Bill 164 in its entirety. Let me assure you that's not the case. Ontario's cigar manufacturers, distributors and retailers understand the intent of Bill 164. The government intends to severely curtail the smoking of cigarettes in the workplace and public places in order to protect the non-smoking public from second-hand smoke. The government also wants to discourage young people from starting to smoke, and it wants to significantly change the ways that cigarettes are sold at retail.

Small Guys Tobacco Group does not oppose the intent of Bill 164. We do oppose, however, having our products treated the same as cigarettes in the legislation. The federal government, through Health Canada and taxation, and the Ontario government, through taxation, recognize that cigars are different from cigarettes, and treat them as such. Cigars are not intended to be inhaled. Young people do not smoke cigars. Unfortunately, the bill as currently drafted will have drastic unintended consequences for our industry, even though the bill is sup-

posed to be about cigarette smoking. I'll go into details on how.

I'd like to speak for a moment about the countertop display ban. The bill proposes to ban countertop displays for all tobacco products. We understand that such displays of cigarettes can be a form of an in-your-face method of marketing that the government believes is bad for children. In convenience and variety stores, cigars are excluded from being displayed on back walls. Frankly, cigarette manufacturers pay store owners for displaying their products. We cannot compete.

We, therefore, display our products on the counter in Health Canada-approved storage units and humidors. Such approval requires that these units must open only from the rear and that customers cannot handle our products prior to purchase. Precluding cigars from countertop display cases would effectively remove these from the stores. Humidors are required to keep cigars fresh and keep them from deteriorating at a certain temperature and a certain humidity. Therefore, we request that a ban on countertop displays not apply to cigars.

We would ask that if the government intends to change or restrict the display of cigarettes on the back wall of retail stores, a provision be made to prescribe space for cigarettes, space for cigars and space for pipe and other tobacco products.

In specialty cigar shops and tobacconists' stores, the bill as drafted would prevent the countertop display of cigars in these stores, which are attended only by cigar-buying customers and which are in the business of selling cigars. Non-smokers don't go into these stores. Young people don't go into these stores. The chance of a young person entering one of these stores to buy a chocolate bar and coming out with a Cohiba is non-existent. However, the bill as written would prohibit cigar stores from displaying their cigars. The impact of this measure on these small businesses would be devastating.

Next, I'd like to comment on smoking in the workplace. The government intends that Ontarians should be able to work without being exposed to second-hand cigarette smoke from others. The Small Guys Tobacco Group does not disagree. Unfortunately, the bill as drafted will preclude cigar manufacturers, importers and distributors from testing, developing and quality controlling our products before they are shipped to retailers.

Testing is important in responding to consumer complaints and returns. Our facilities are workplaces under the law, but they are also places of business all about cigars. We require testing areas within our facilities. Cigars are not mechanically mass-produced like cigarettes. They're vary widely and need to be tested for quality and flavour before being shipped. Bill 164, as drafted, would prevent this from happening.

I have a brief comment on smoking in public places. Bill 164 intends that indoor public places should be smoke-free, again, to limit people's exposure to second-hand cigarette smoke. We do not oppose this.

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Currently in Ontario, many specialty cigar stores or tobacconists have dedicated areas within them where a

customer can test a cigar before purchasing a box. Given that a box of fine cigars will cost hundreds or thousands of dollars, this is a reasonable request. Only customers who have business with that specialty shop make use of this space. The general public does not access these areas. In other words, these privately owned stores are not places where anyone can just duck in and have a quick smoke. Children are naturally excluded from tobacco shops.

Bill 164, as drafted, would end this practice, as these specialty stores would be considered public places. We believe this is an unintended consequence of Bill 164. Store staff generally spend their time in the counter retail section of these specialty stores. The sampling rooms do not need to be staffed. The only people who frequent these rooms are cigar smokers themselves.

Finally, I would like to comment on experiences in other jurisdictions. Health Canada recognizes the fundamental difference between cigarettes and cigars and regulates them accordingly. So do California and New York state, where smoking bans have been implemented. Exemptions exist for manufacturers, distributors and retailers of cigars. This is a matter of fact.

In conclusion, I submit that clearly, the target of Bill 164 is cigarette smoking in Ontario. Just as clearly, the bill will have a proportionately bigger impact on the cigar manufacturing, distribution and retailing industries, which are predominantly small businesses, with considerably less impact on the cigarette industry.

We believe that the government does not intend to devastate our businesses. We urge this committee and all members of the Legislature to amend Bill 164 so that the cigar industry does not become an unintended victim of the government's plan to reduce cigarette smoking in Ontario.

Thank you for your time. I'll be pleased to answer any questions.

The Chair: Thank you. This round of questioning will go to the NDP.

Ms. Martel: Tell me about smoke rooms, or cigar lounges, as I think you described them here. How are they normally set up?

Mr. Jakubovic: Normally, there's a retail area and a separate, enclosed area that has smoking. They generally have ventilated areas. There's no service, so there's no wait staff required. Most staff are in the retail area, handling the retail side of the business. A smoker would go into the room, the door would be closed, and there's a ventilation system in that place.

Ms. Martel: We've heard concerns about ventilation in DSRs. My next question would be: What assurances can you give, if you can give any, that these ventilated areas are any better than ventilated areas in DSRs, which we've heard from a number of other people don't really work?

Mr. Jakubovic: I would think that ventilation would be put in place to maintain the best air possible. I don't know why ventilated areas don't work. If the door's closed and if the room is used properly, it should work. I believe most stores are set up that way.

Ms. Martel: Do most tobacconists' shops also have these areas?

Mr. Jakubovic: Not most. A fraction would have them. I'm not sure about the exact numbers. Some have; some don't. Generally, the larger tobacconists' shops do have a separate area.

Ms. Martel: We have before us two issues. For those who do have cigar lounges, as you've called them, it's whether or not they continue to be in existence, especially if the committee, for example, has concerns about ventilation, as has been raised with respect to DSRs. That's one issue. We've got a second issue where you've talked about testing facilities. I'm not sure I understand that. How big is that market?

Mr. Jakubovic: Manufacturers and distributors, on receiving complaints or comments on their cigars, or in preparing to ship a type of cigar, will need to test cigars. Cigars are unlike cigarettes. Each one is unique. There are no additives or chemicals being added; it's just a tobacco mix that's in there. They can be rolled too tight—most of them are hand-rolled—or too weak to get the right smoking intensity, the correct draw. If there are complaints, the only way to check these cigars is to smoke them, and experts in the company would do that. It's for distributors and manufacturers, as a quality control of their product.

Ms. Martel: Do you ever get people who say they don't want to do that as part of their employment? I'm not trying to make fun of this by any stretch.

Mr. Jakubovic: It's not a job we hire people for. It's something that people who are cigar smokers do, because the only way you can test a cigar is to be a cigar smoker and understand the product.

Ms. Martel: How many testing facilities would there be in Ontario?

Mr. Jakubovic: It would be based on the number of manufacturers and importers. Each company would probably require one room, I imagine.

Ms. Martel: If I look at banning the cigars you would have on display—I'm thinking about a display, because you sell other tobacco products in terms of pipes etc. How much of your countertop display is the actual product itself?

Mr. Jakubovic: The units themselves are basically humidifying units. They have a mechanism for maintaining humidity. It's very controlled in how it's sealed and how it's accessed. The cigars are in almost like a refrigeration-type unit. Virtually the whole unit is dedicated to holding those cigars. There's no display aspect to it in the sense that it's being used to hold and humidify the cigars.

The Chair: Thank you for your presentation.

Mr. Ouellette: On a point of order, Mr. Chairman: I would ask the researcher if they could provide information on how many cigar manufacturers there are in Ontario so we could receive that information at a later date.

As well, the PA may be able to respond and provide some information as to how tobacconists' places like this

might be affected as it relates to countertop displays when that's the sole function of the store.

The Chair: Very good. Research will look into that matter, as will the PA.

WHITBY YOUTH COUNCIL

The Chair: I would ask the Whitby Youth Council to come forward, please. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. Please state your name for the purposes of our recording Hansard. You may begin.

Ms. Tanya Wagner: My name is Tanya Wagner. Mr. Chairman and committee members, I would like to thank you for allowing me to talk to you about an important issue that affects youth province-wide.

I represent the Whitby Youth Council, which is located at 111 McKinney Drive in Whitby, Ontario, L1N 5R5. Our council was formed in 2002. Our goal is to promote opportunities for youth in the town of Whitby. Our interests extend to advocating for healthy environments for youth to grow up in. This is why we would like to talk about tobacco displays in stores and why they should be banned to protect youth.

We support the Smoke-Free Ontario Act. We support smoke-free public places and workplaces. We support anything that reduces youth smoking and accessing cigarettes. We support these things because they stop smoking from being the norm in our community.

Before preparing this presentation, I believed that about 40% of teenagers smoked and about 75% of adults smoked. I was shocked to learn that only 21% of teens smoke and only 25% of adults smoke. I found out in preparing this presentation that the more we see cigarettes, the more we think it is normal. Obviously, I was fooled into thinking more people smoke than is the case. We at Whitby Youth Council don't want more youth to be fooled as well, because we know that the more teens think smoking is normal, the more teens will smoke. Making public places and workplaces smoke-free and banning tobacco advertising will help achieve this goal.

We've learned that many tobacco companies pay for retail displays in order to make cigarettes appear to be more popular than they really are. To do this, they often install a large power wall of cigarette packages in quantities far more than is necessary to supply consumers. You have undoubtedly seen them when you have gone into a corner store, and so have the youth of Whitby.

Displays that place tobacco beside other products send a message that tobacco is as socially acceptable as candy or newspapers. We shouldn't grow up in an environment where we see tobacco advertising every time we go into a corner store, including stores next to schools.

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Tobacco advertising and promotion increase smoking and the number of youth who start smoking. A ban on such advertising and promotion would decrease smoking among adults and youth. That would be an amazing thing to see.

In preparing this presentation, we found out that retail promotion was growing in spite of the 1997 Tobacco Act, which had been intended to restrict tobacco promotion. As other marketing avenues have been closed—for example, mass media advertising—tobacco companies have increased their emphasis on retail displays. Product displays at retail stores are now far larger and more numerous than was previously the case. In Canada, in 2002, tobacco manufacturers paid \$77 million to retailers for retail display space.

A ban on tobacco advertising and promotion will protect kids from exposure to tobacco promotion. This will mean fewer kids starting to smoke. We applaud the Ontario government for making this investment to protect the health of its youth.

On a personal note, I used to smoke and believed that it was the normal thing for teenagers to do. I started when I was 14, and I'm 16 now. I would get my cigarettes from friends, who bought them from stores without using any fake ID. The new law will reduce the number of teens who smoke due to the so-called normality of cigarettes.

Fortunately, I was able to quit. But recently I was thinking about why I smoked in the first place. I smoked du Maurier and sometimes Players, and I noticed the other day that those two brands were the most noticeable behind the counter of my local store.

I think I am living proof that tobacco advertising affects teens. This is why I wanted to talk to you about it today and ask that you ban retail displays of cigarettes, including power walls. Thank you.

The Chair: The questioning will go to the government.

Ms. Judy Marsales (Hamilton West): Thank you, Tanya, for your presentation. I must applaud you for the leadership you're demonstrating, not just by your involvement but your strength of character, to be able to speak up for something that you believe in by giving voice to young people to choose another path.

One of our struggles through all of this is to try and expose young people to some of the factual information that you've managed to glean through your personal research. In your view, what could we do better to reach young people? We've tried the commercials, stupid.ca.

Ms. Wagner: Those are good. When I started seeing them, even smokers who were my friends, they were just like, "Oh, my God, I must be pretty dumb."

Ms. Marsales: It's the peer pressure. I think we've all learned through the research that that is part of the magnet that attracts people in terms of smoking and other issues. Is there something we're missing? Is there anything more we can do to engage young people, to help them learn either from each other or from just denormalizing the whole cigarette industry?

Ms. Wagner: I don't really see any way we can really get children away from it. I pretty much started because my mom smoked. I would get it from her, like steal it from her. But I didn't even get involved with people who did smoke until I started myself.

I don't really see any way we could, unless everyone stopped and just got it away from children. My mom

would always tell me about the harms of it and how bad it was, but it still didn't change my curiosity about it. So I don't really see any way we can unless everyone stops.

Ms. Marsales: Thank you, Tanya, and thank your mom too.

The Chair: Thank you for your presentation.

MAC'S CONVENIENCE STORES

The Chair: Mac's Convenience Stores, would you please come forward. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

Mr. Steve Tennant: I'm Steve Tennant from Mac's Convenience Stores. I'm director of operations for Ontario.

Mr. Ted Wigdor: My name is Ted Wigdor, but I won't be speaking.

Mr. Tennant: I represent Mac's Convenience Stores. We operate over 1,900 stores across Canada, including 797 in Ontario. We represent about 13% of the market of C stores in Ontario. We have over 20,000 employees in Canada and 5,000 here in Ontario. We work in an industry that works on a very low margin of profit. At the same time, Mac's are very committed to the well-being, health and safety of our communities. We've donated in the last year over \$10 million to local charities through our break-open tickets, the Nevada-style tickets.

We fully comply with all tobacco control regulations and are very proud of our track record. No one starts working behind our counters before they're fully trained on how to legally check and verify ID. They are also not allowed to work behind our cash registers before they've been thoroughly trained on safety and security methods. At the same time, before any sale can be transacted on our cash registers, there's a prompt that comes up that shows the age verification that has to be legal for the sale to be processed. So we're checking every single sale.

With regard to Bill 164, we fully support the initiatives to educate youth on the dangers of smoking and to curb the flow of tobacco to youth. Couche-Tard has worked closely over the years with the Not to Kids Coalition, which started in Scarborough, and has rolled out to 18 different health boards across Ontario. Not to Kids is a benefit to us and one that we support because it gets right into the schools and teaches kids at a very young age the health concerns around tobacco.

We support Bill 164 regarding the efforts to curb consumption of tobacco. At the same time, we are pleased that Bill 164 did not include a retail display ban on the back bar section for the following reason: When a total ban was instituted in Saskatchewan the first time, there was actually an increase in tobacco consumption by 7.5%. That's from StatsCan's numbers and can be verified. To our knowledge, we have not seen a single, unbiased, scientific study that directly links a back bar display of tobacco to increased consumption by youth.

Next, it would be very costly for us to implement changing our whole back bar to a safe and effective manner of selling cigarettes. Attached in our handout is our cost, estimated at slightly over \$4,000 per store.

Lastly, to ban the back bar display or hide away the tobacco would create a safety and security concern for our staff. Within the last fiscal year, which ends on Sunday, we've experienced over 160 armed robberies, putting our staff at a great deal of risk. That means that almost one out of every four stores experienced an armed robbery last year. The financial loss was inconsequential at \$125,000. It's the trauma and injury caused by those robberies and the risk to the life and safety of our staff that are our primary concerns. We've worked diligently over the years to reduce the risk to our staff and had it down to a manageable level, but because of the high taxes imposed and the higher value of tobacco since 2002, we've seen a 30%, and then last year a 50%, increase in armed robberies.

This has also translated into an increase of \$200,000 in WSIB payments this year alone. Those are a direct result of our employees' lost time from injury during armed robberies and the trauma caused experiencing an armed robbery. Our staff have been stabbed. They've had a shotgun put to their head and held there for 10 minutes while they waited for a safe that holds a large quantity of cigarettes to be opened.

Those are our concerns. If the back bar is changed, it could somehow divert our staff's attention from looking at the customer. Our primary concern is that our staff be aware of their surroundings and what the person on the other side of the counter is doing, or potentially could do to them.

Regarding education, we've asked the government over the last year to work with us to expand the Not to Kids program or other educational programs, to reach further and consistently across the province to educate at a young age on health issues related to tobacco.

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Today, the Not to Kids program is across 18 health boards, but there are over 40 health units across Ontario. So it's not even 50% of all the boards. A lot of the boards simply cannot afford it. We would also like them to be better funded and certainly for the government to take charge of it and to have one leader on it. Because it's done across 18 different municipalities and boards, it's enacted in different methods and handled in different methods.

The next step we would ask the government to take is to improve the age verification system. Make it easier for us and for our clerks to check the age of the person buying the cigarettes on the other side of the counter. In the US, there are a number of the states that have changed the colour of their driver's licences. When you're at the age of majority and you can buy alcohol or tobacco, depending on the state laws, your driver's licence colour changes. It's simple and easy to verify. If it's red, you can't have it; if it's green, you have age verification. Other states have a vertical bar code. When

you come of legal age to buy age-restricted products, it changes from vertical to horizontal. They're wide, they're easy to check at the store. Make it easier for us verify the age. Take away the guesswork of guessing a person's age. We're asking consistently for 25 and younger, but it's still a judgment call. Make it easy for us, please.

Lastly, we're at risk. Convenience stores are in every neighbourhood, on every corner. We're open late. We have limited staff. Lots of our stores are open 24 hours. We're at risk already. Our experience has shown that we've had lots of robberies. What's happened because of the higher taxes is that the value of cigarettes has gone up substantially. Because of that value, it's a greater reward for the bad guys. The greater the reward, the greater the risk becomes for my staff and for the rest of the industry. That's my primary concern: the safety and security of my staff. The back wall displays are the safest, most efficient method we have found to sell cigarettes. If there was a better way, we'd do it to protect our staff.

The back bar also represents a primary tool for how we sell tobacco, in that our stores carry over 300 SKUs, different products. To simply display that quantity of cigarettes, those products that our customers are looking for, we need a space. We're happy to work with the government to reduce that space and to ensure that there will be no advertising on it. Our company is committed to voluntarily removing counter displays by June 1, before this legislation is passed or enacted. We will be removing our counter displays no later than June 1 of this year, along with many of the other industry leaders.

We hope to continue to work with the government on this issue. Mac's and our employees are no different, I think, than this panel or the rest of the Ontario public. We don't want our children to smoke, we don't want our grandchildren to smoke. We will do everything in our power to help the government and work with the government to ensure that we remain a responsible retailer within this industry.

The Chair: The questioning will go to the official opposition.

Mr. Ouellette: Thanks very much for your presentation. A couple of points: First of all, the bar-coding I think was a good idea, but I'm sure the government will find that different ministers, working with different ministries, sometimes find it difficult to implement.

What percentage of the sales at your stores would be dependent on cigarettes?

Mr. Tennant: For Mac's, we've worked hard over the years to recognize that tobacco is a sunset category. It is reducing every single year. We're moving more and more to the food service side. Unfortunately, because of the high value of cigarettes, it still represents 35% to 40% of our sales.

Mr. Ouellette: I believe once upon a time it was called Mac's Milk, was it not, because milk was the number one draw for—

Mr. Tennant: Yes, it was.

Mr. Ouellette: We're seeing changes in business aspect, and I would expect, as you imply here, that the sales are decreasing there. Should changes come about, you'll see more and you'll be changing your business to reflect the interests of society as well.

I'm not sure, is Mac's with the counter at the front by the door or at the back?

Mr. Tennant: At the front. When we purchased Beckers, most of the Beckers stores had the counter at the back of the store.

Mr. Ouellette: Yes, that was designed so that you'd have to walk through the store to get the milk and then you'd come back to the front—

Mr. Tennant: And they would serve you the milk.

Mr. Ouellette: —and vice versa for Beckers.

Mr. Tennant: Mac's took them over. We immediately moved them all to the front for one simple reason: safety. If we're in the front window, we can be seen by the street, the police and other people driving by.

Mr. Ouellette: Right. I wasn't on the committee yesterday, but the committee had a presentation from a Korean business group that spoke about the amount of funds they received for product placement. Are you in a similar situation, and what sort of funds—

Mr. Tennant: Yes, sure.

Mr. Ouellette: Is that a substantial amount that comes into the business?

Mr. Tennant: We're probably receiving around \$4,000 a year for the displays. That includes the front counter displays. We probably have two or three displays that we're voluntarily going to remove.

Mr. Ouellette: I know my colleague Mr. Barrett has some questions regarding the safety issues.

Mr. Barrett: We certainly heard in previous testimony the fact that one in four stores is robbed every year. You've indicated that it's reflected in WSIB premiums and the impact on your employees. You state here that you applaud the government with respect to the back walls. You applaud the government for taking these issues into account and not incorporating a retail display ban in Bill 164. Do you have some concerns about this government changing its mind on this?

Mr. Tennant: Hopefully not. If the displays are reduced, that's fine. I understand the advertising should be removed. That's my concern. If it's hidden behind a curtain, hidden behind some panelling, hidden in drawers, my staff's attention is diverted from that customer. It slows us down. It may seem like a very insignificant percentage or timeline for you, a second or two seconds, but frankly, if you look at it, the average armed robbery in our stores take less than 30 seconds—full transaction. From the time they enter to the time they leave is less than 30 seconds. So a second or two is an awfully long time.

Mr. Barrett: Armed robbery—why are people stealing cigarettes? We heard testimony that a carton costs \$60. We know that the present government has increased tobacco taxes three times in the last year and a half. Not just this government, but governments across the Domin-

ion of Canada bring in \$8 billion every year in tobacco taxes. Have you seen any increased contribution from the government as far as assisting you with these armed robberies? There's a 50% increase in armed robberies since this government has come into power?

Mr. Tennant: No, we have not. I should clarify: There has been some discussion with the city of Toronto. The new police chief has asked for some time. He has an initiative in place that he's going to try to focus on small convenience stores and variety stores and help us reduce the level of robberies, armed robberies in particular, within Toronto.

Mr. Barrett: I would suggest the city of Toronto, his employer, probably doesn't accrue any of that \$8 billion in tobacco taxes that come in, but it's going to come out of the municipal budget.

Mr. Tennant: Yes. We are also part of the Ontario Convenience Store Association, which commissioned Norm Inkster to do a study for us last year. There is a direct link. Mr. Inkster has indicated that rising taxes, the rising value of cigarettes have a direct link to rising crime rates. The greater the reward, the greater the risk for my staff.

The Chair: Thank you for the presentation.

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PORT PERRY HIGH SCHOOL,
AMBASSADOR PROGRAM

The Chair: I would call on the Port Perry High School ambassador program to please come forward.

Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to state your names for the purposes of our recording Hansard, and you may begin.

Ms. Olivia Puckrin: I'm Olivia Puckrin.

Ms. Caylie Gilmore: And I'm Caylie Gilmore.

Ms. Puckrin: We are students from Port Perry High School. We're here representing the ambassador program of our school, which aims to promote leadership qualities in students. Recently, we've been focused on the issue of tobacco in society and, more particularly, with youth.

We love the stupid.ca commercials that came out this year. Our favourite ones are the lightning rod one where a girl stands in a lightning storm and explains that only three people a year die from lightning strikes, whereas more than 16,000 people die from smoking. The other one we like is where the guy wears an antler helmet in the woods during hunting season and explains that only two people died last year from hunting-related accidents—far less than the 16,000 who died from smoking. We think these messages are both funny and educational, and we hope that more teenagers get the message about what is really stupid.

Inspired by that campaign, we have designed our own posters to go up in our schools, and we distributed them to youth groups and schools across the region. I've brought copies in for the committee to see.

This one says: "The odds of dying from a bear attack are one in 56,000. The odds of dying from tobacco are one in three. Don't risk it."

This next poster reads: "The odds of dying from falling out of a window are one in 47,960. The odds of dying from tobacco are one in three. Don't risk it."

The last poster is a bit different. It says: "Your money goes in here. Later, it's given to a tobacco company. The tobacco company develops a marketing strategy to addict more kids. How much would you like to contribute?"

Today, we'd like you to consider the last poster and the line about how the tobacco industry comes up with marketing campaigns to addict youth.

You probably know that tobacco companies aren't allowed to advertise their products but, still, nearly every kid I know can name about five different brands of cigarettes. How is that? Well, it's no mystery. Every time we go into a store, cigarettes are there. Cigarettes are displayed on the counter, behind the counter and even in the counter. We recently learned that the tobacco industry pays stores \$88 million a year to do this. This advertising not only tempts young adults to smoke, but it makes cigarettes look like a normal product. But no other product will kill you if use it as the manufacturer intends, so how can this be normal?

Society has tolerated tobacco for way too long. We're realizing how dangerous it is, and putting limits on it, like when Durham region went smoke-free in 2004. We look forward to seeing the province go smoke-free with this new act. It's about time that teenagers can work a part-time job and not be exposed to second-hand smoke. But if the province allows cigarettes to be advertised in stores with countertop and power wall displays, well now, that would be stupid.

The Chair: Good. We'll move to the NDP.

Ms. Martel: Thank you, both of you, for being here today and for your work as ambassadors.

A couple of us were having a discussion earlier this morning about the power walls and asking each other what the top five are, because I have never noticed. So what is it that attracts teenagers that doesn't focus on old people like me? Because I couldn't answer the question.

Ms. Puckrin: I think when you go into a store, you're not necessarily thinking about the person who's ringing through the items you're purchasing. If you have a short attention span, you're looking around, and if you have a wall of cigarettes behind you, that's a lot of one product. It seems a bit unusual to constantly have—they're never unstocked, so it's just something that's always there for you to see.

Ms. Martel: Would it be your experience that if you're either in the store or if you're talking to other kids who are in the store, they're also in the store talking about that? You get up to the counter, you're chatting about whatever and then the focus becomes the power wall?

Ms. Puckrin: I don't think it becomes the focus of discussion, but it's in the back of your mind. When you see something, maybe it doesn't click in right away, but

later in the day that thought might come into your head, something that you'd seen earlier in the day and it just sort of stays in the back of your mind. It stays with you for a lot longer than you think, whether you're discussing it or not.

Ms. Martel: In terms of your work and your discussions with other students in the school, just because I want to clarify something, would it be your view that naming the five brands comes from the power wall for most students, for most young people? Is much of that or any of that or a little bit of that perhaps related back to someone in their family smoking and so that's how they make the connection? Or is it just that most people's parents are not smoking—because we see that that decline is there, and that's real—and people's recognition really has to go back to the power wall?

Ms. Puckrin: I think so, because they can't advertise in products that teenagers are able to purchase. If there's no smoker in your family, the only place for you to see that is on the power wall.

Ms. Martel: As you talk to people, that's where they're getting that message from?

Ms. Puckrin: I believe so.

Ms. Martel: I wanted to ask you about general conversations with other students, because you said you've focused particularly on the problem of smoking most recently. What is it about smoking that is attracting young people? I ask that because then I have to say, what do we do to send another message or to reinforce messages that you just shouldn't start?

Ms. Puckrin: I think it's curiosity. You see a product, something like that, and curiosity is human nature, so people are going to be interested in it. Unless you've had it drilled into your head from parents or teachers or peers that smoking is not a good thing, that it's not healthy, then you're on your own to make that decision. If you see it and it appears as a normal product when you see it behind counters and in counters when you're buying a chocolate bar, then it takes willpower to resist it. But I think just get the message out there more, even when you're five years old, that smoking is bad, so that you have that with you all through childhood, and when you get to the point where you're being tempted, you can think back and say, "You know what? I've been told that's wrong for a long time. I don't think it's changed." So just get the message out there even when they're really little.

Ms. Martel: In terms of school, outside of your program—I wouldn't pretend to know a lot about the program, so I apologize for that—what kind of reinforcement do you see now through the education system, for example, of "This is dumb. This is really bad for your health. Don't get started"? Where are those messages coming from in the education system, for example, and what else could we be doing, since students spend so much time at school, to use that as a place where we're reinforcing a message?

Ms. Puckrin: I know in our school the vice-principal has been running a quit-smoking program that didn't

quite get off its feet. It needed more publicity, I think, for that. Also, in health classes students get told that smoking is a bad thing. But by grade 9, when you're taking gym class or health, you've maybe already had the opportunity to try it, so it might be too late. So in the elementary school system, in health class or gym in grade 2 or whenever, when they're really little, hit them with the message that it's bad. So by the time they get to high school, when they see posters displaying that it's a bad thing, it's going to be reinforced even more.

Ms. Martel: Is there information available in the guidance counsellor's office, for example?

Ms. Puckrin: I don't smoke. I'm one of those whose parents have been telling me since I was very little not to, so my attention has never been drawn to something like that in a guidance counsellor's office. But I think if you went to the guidance counsellors, they would have material for you. I think there is a pamphlet or two on how to quit smoking.

Ms. Martel: And where to go, what the community resources are if you're looking for a way to quit. So you think that's available?

Ms. Puckrin: I think so.

Ms. Martel: I don't think I have any more questions.

The Chair: Thank you for the presentation.

NIAGARA COUNCIL ON SMOKING AND HEALTH

The Chair: Niagara Council on Smoking and Health, would you please come forward? Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to state your name for the purposes of our recording Hansard.

Ms. Charmaine Grace: My name is Charmaine Grace. I'm a council member with the Niagara Council on Smoking and Health. I'm also, in my role, a representative of the Cancer Society, but this is NCOSH. I am presenting here today to support Bill 164, with no exceptions and no exemptions, and actually asking to strengthen section 3.1 on the display, handling and promotion of tobacco products.

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A little bit of background: the Niagara Council on Smoking and Health, or NCOSH, is a community-based organization whose mission is to promote a tobacco-free Niagara. We provide support regarding public awareness on tobacco issues; increased protection from environmental tobacco smoke, or ETS; smoking cessation programs; and a link to other councils and coalitions supportive of such healthy objectives.

Since 1976, NCOSH has been a thriving, active coalition with a diverse membership, working to create a smoke-free Niagara. We work with other smoke-free councils to support the Ontario tobacco strategy. Our partners include the Canadian Cancer Society; Canadian Diabetes Association; the Centre for Addiction and Mental Health; Heart and Stroke Foundation of Ontario;

Healthy Living Niagara, which has 28 agency partners; Leave the Pack Behind; Brock University; the Niagara Lung Association; and the Niagara regional public health department.

On the list that I have is also the Niagara district health council, which, at the end of March, was replaced with a local health integration network.

Our stand is: NCOSH would like to congratulate the provincial government for showing strong leadership and taking a stand on this important issue. We commend the government for putting health first. This bill makes the healthy choice the easy choice. Forty years ago, we didn't know the dangers associated with tobacco and smoking. Smoking and the use of tobacco products became a normal part of our society. Today we know those dangers. We know the toll on the quality of life for people affected by smoking, either directly or through second-hand smoke. I'm not going to go into the medical evidence or the statistics that prove this. That information is readily available. The proof is evident, and as pervasive as cigarette smoke.

It's time to create a healthier norm. The Niagara Council on Smoking and Health has been active in promoting a smoke-free Niagara because it is a question of health, for people exposed to dangerous smoke, dangerous second-hand smoke, and for people who have to work in those atmospheres. It's a question of choice, for the majority of people who choose not to smoke, to be able to frequent public places without placing their health at risk from second-hand smoke. With no bylaws or with partial bylaws, their freedom of choice is limited. Supporting the province in taking a stand to protect the health of the people of Ontario helps us, NCOSH, fulfill our role to promote a smoke-free Niagara.

The Ontario Medical Association strongly recommends a complete smoking ban in work and public places. Today more than 100 municipalities have chosen to protect their citizens with smoke-free bylaws. Seventy-three of those communities chose to go 100% smoke-free, with no designated smoking rooms and no exemptions for bars, bowling alleys or bingo halls. Thirty-one communities have bylaws that include some exemptions, and still other communities have no bylaws. We need one provincial law to protect everyone equally. That means 100% smoke-free, with no exemptions, to protect the people who work in or visit public and workplaces. That includes casinos and bingo halls and other places that may currently have exemptions, because it is about protecting health. With Bill 164, the Ontario government is protecting the health of its people.

NCOSH asks that the province go one step further to strengthen the bill, by recommending that in section 3.1 of the bylaw—display, handling and promotion—the dismantling of tobacco power walls be clearly specified. Research shows that children's exposure to tobacco power walls normalizes the use of and subsequent addiction to tobacco products, and ultimately this leads to further exposure of the next generation to the harmful effects of second-hand smoke. Removing this influence

is a step toward protecting the health of young people. Other provinces and other countries have recognized that tobacco use and second-hand smoke are serious health issues that need to be regulated. They chose to protect their people by implementing smoke-free bylaws. Ontario is to be commended for bringing this bill forward. The next step is to implement it; the sooner, the better. It is a question of health. This bill will make the healthy choice the easy choice.

The Chair: We'll move to the government in this rotation.

Mr. Fonseca: Thank you, Charmaine and the Niagara Council on Smoking and Health, for your presentation.

When the minister, the ministry and the chief medical officer of health were putting this piece of legislation together, they scoured the planet—Earth Day, I believe, is today—to look for other jurisdictions that had smoke-free areas in place. They looked at Florida, New York, California and Ireland—I could go on and on—and wanted to bring the best together to make sure that this was one of the strongest and most comprehensive pieces of legislation and that it would put us at the forefront here in North America.

In doing so, we—I'm going to relate this back to Niagara, because it is a strong tourism area—looked at places like New York City, which also relies strongly on its tourism sector. In New York, when they brought in their smoke-free legislation, there was much concern about the losses that many talked about. What we have seen since that legislation came into place is that they gained 10,800 new jobs within the hospitality sector. They are thriving. There are other places, also: San Francisco is talking about outdoor bans when it comes to their smoking legislation.

If I can ask you: In Niagara, being grassroots, how do you feel this will impact tourism as a whole in that region?

Ms. Grace: The question that has been asked by a number of tourists is, "What are the bylaws? What are the rules?" All they want to know is what the rules are so that they can maintain them. I believe that it will not have a negative effect. We believe that at NCOSH as well as locally.

My personal experience aside from NCOSH is that I now frequent restaurants and bars that I would not have frequented because of the smoke. The one place I don't go to is the casino, because of the smoke, or even to the slots at Fort Erie. Although a networking group that I belong to was invited there, there's no way I would go, because I've been there once. The ventilation system does not remove the smoke, and I find it very uncomfortable and unpleasant to be in that kind of atmosphere. I believe that other people will feel the same way coming to our locale.

Mr. Fonseca: Within NCOSH, do you have a number of grassroots programs? I know that Ms. Martel was bringing up the last presenters, the youth. What's in place for education or around helping especially our youth with prevention within the community?

Ms. Grace: Our public health department just finished a “go smoke free” poster contest this week and a radio contest for anti-tobacco advertising. Those are really good things that are happening.

I mentioned the partner organizations we’re with. Through those organizations, we can direct people. The Cancer Society has the Smokers’ Helpline, plus excellent books on quitting one step at a time. The Lung Association has videos and programs to help people quit smoking. Information is readily available in Niagara and easily accessible.

Mr. Fonseca: I would like to see a province where we deliver a clean message. It’s always been said that Ontario is a clean place to visit and is open to everybody. By having it smoke-free, we can make sure that nobody finds it offensive to walk into an enclosed workplace or public place.

The Chair: Thank you for your presentation

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LORI SPEED

The Chair: Would Lori Speed please come forward.

Ms. Lori Speed: Good afternoon, everyone. Thank you for allowing me the opportunity to speak with you this afternoon. I appreciate this expression of my rights as a citizen.

My name is Lori Speed, and I’ve come to speak to you today wearing two hats. First and foremost, I’m here as a private citizen who is concerned with the preservation of personal freedoms that are precious inheritances from our ancestors, who suffered through uncountable wars and personal hardships in order to provide future generations such as ours with better lives and more freedom. Second, I’m here to speak to you as a bar owner, on behalf of some of the 50 employees I have let go since the smoking ban came into effect, and also for my 40 remaining employees who have seen their salaries, which are comprised mainly of tips, decrease as much as 40%.

In an article in last Friday’s National Post, Martin Patriquin writes about the inevitable demise of some of his favourite eateries in Quebec when the no-smoking bylaw comes into effect there. In his article he asks: “What will happen next? Will the health police go after coronary-inducing grease, or will it mess with my God-given right to drink a pitcher of beer at lunchtime?” This is my major concern. I see a disturbing trend of lack of personal freedoms currently sweeping across North America. How about those Yankees tossing suspected—I repeat, suspected—terrorists into Guantanamo Bay and holding them there without trial? I certainly hope that’s not the direction we’re taking here.

I think that the Economic Institute of Montreal put it best in their last newsletter, which was quoted in *Le Devoir* on March 30, when they said they believe that the push by the Quebec government to ban smoking in public places sets a dangerous precedent of the state’s intervention into the personal preferences of its citizens. They

also said this ban is an attack on such commercial institutions as contractual freedom and the right of property.

I agree, and although I was a smoker for 22 years—for the past four years I have been a non-smoker—I’m uncomfortable, and I would be uncomfortable not to speak out about what I consider to be a loss of personal freedom.

As a bar owner, I have heard many people, including bylaw officers and politicians, say that many bars are profiting from this bylaw and talking about these invisible non-smokers who are going to appear and take up the slack from the smoking clientele who have left. They also say that it hasn’t been as difficult as some bar owners make it out to be. I’m here to tell you that this is false. Every bar owner I’ve talked to has lost business. Many have closed; I believe the latest number was 29 here in Durham region alone. I myself have lost 40% of my business.

How many people do you think this affects? This affects not only myself, as an owner, and my partners, and my family and my partners’ families, but also thousands of people throughout society, many of whom are the poorest people in our society: students and single mothers who have traditionally depended on work in the hospitality industry in order to make ends meet. I am a university graduate in communications from the Université du Québec à Montréal, and I put myself through university by working in a bar. Go and tell Debbie, who supports four children and now works three nights a week instead of five and earns half as many tips on these evenings, how the government and the no-smoking bylaw is helping her. While you’re at it, maybe you can give her a box of Kraft Dinner to help feed her children. I am sure she needs it.

The Chair: Thank you. This round of questioning will go the official opposition.

Mr. Ouellette: Thanks very much for your presentation. I know you have put in a patio there. How is that going to be affected by any of the changes that have come forward?

Ms. Speed: Well, the patio is the last remaining place where anyone is able to smoke at the current time. A high percentage of the remaining clientele I have do use the patio in order to smoke, and I’ve been going through a lot of very confusing interaction with bylaw officers and such, who come to me one day and say, “You can smoke on the patio,” and the next day, “You can smoke on the patio, but half the windows have to be open,” and the next day, “You can smoke on the patio, but you have to remove the side walls,” and the next day, “You can smoke on the patio, but you have to take the side walls and the roof off.” It’s been very frustrating and very complicated, and, as I say, I have trouble with having people tell me or my customers that they’re unable to smoke in a bar, which is traditionally a place of smoking and drinking. I think that if the only remaining place is to be a patio, so be it.

Mr. Ouellette: Have you seen a change in business trends for times of day: more business, different clientele, a changeover coming about as a result of this?

Ms. Speed: As I said, I've lost approximately 40% of my clientele. The only change I've seen since the smoking bylaw took effect in Durham in June is within the last two to three months, where I've had a slight increase in business during the hours of 4 p.m. to 8 p.m. I studied that increase in business to try to determine where it had come from, and it's actually people who are coming to my establishment because their regular establishments have closed down due to lack of business because of the smoking bylaw.

Mr. Ouellette: I believe you have an association with similar businesses in other jurisdictions, not just Oshawa, who have gone through a similar transition. What was the end result in those locations?

Ms. Speed: We have another establishment in Nepean, Ontario—our establishment is a chain—where the smoking bylaw took effect five or six years ago at least. Their business has never recovered. They made a \$1.5-million investment in their local community by opening an establishment and saw their business drop by 40% to 50%, and it has never recovered.

Mr. Ouellette: Those are all my questions.

The Chair: Thank you for your presentation.

CANADIAN RESTAURANT AND FOODSERVICES ASSOCIATION

The Chair: The Canadian Restaurant and Foodservices Association, would you please come forward. Good afternoon. You have 10 minutes for your presentation. There may be five minutes of questioning following that. I would ask you to identify yourself for the purposes of Hansard.

Mr. Douglas Needham: My name is Douglas Needham. I'm president of the Canadian Restaurant and Foodservices Association. I want to thank you, Mr. Chairman and committee members, for the opportunity to comment on Bill 164.

I'm not here to promote or defend smoking. Our industry doesn't have a stake in the tobacco industry, but if our customers didn't smoke, I wouldn't be here. Our industry is confronted with two stark realities: 1.8 million Ontario adults continue to smoke—that's 20% of the market—and in adult-oriented establishments like bars, pubs, taverns and nightclubs, smokers represent a high proportion of the clientele.

We support the intent behind this legislation. Achieving this objective, however, is a transitional process. Just as smokers need help in quitting, so does the hospitality industry. We need a reasonable transition period which protects public health and supports Ontario business. Therefore, we're recommending that Bill 164 be amended to permit designated smoking rooms until 2010 for the following reasons:

Ontario's tourism and hospitality industry is in the fifth year of a prolonged slump. Thousands of jobs have been lost, and thousands more are in jeopardy.

More than 700 Ontario operators have made significant capital expenditures to build DSRs in compliance

with local bylaws. As it stands, Bill 164 will expropriate these investments.

Smoking cessation programs need time to take effect and reduce the incidence of smoking among our customers.

Finally, designated smoking rooms offer a means of protecting non-smoking customers and employees from exposure to second-hand smoke.

I'm going to speak to each of those four issues and then answer any questions you might have.

Ontario's tourism and hospitality industry is in the midst of a five-year slump, and it's actually getting worse. If you refer to page 4 of our submission, you'll see that international visitors to the province have fallen from 31.1 million in the year 2000 to 22.9 million in 2004. That's a decline of 26.4%, representing 8.2 million fewer visitors to the province.

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The industry hasn't recovered from 9/11, SARS, the rising Canadian dollar or gridlock at the US border, and operators from Windsor to Kenora to Brockville are scared. They need more customers, not fewer. Pubs, bars, taverns and nightclubs—the sector that tends to attract a higher proportion of smokers—are hurting the most. Between the first quarter of 2001 and the first quarter of 2004, average sales per establishment dropped 24.9%. In the past three years, 4,100 jobs have been eliminated from this sector. That's the equivalent of closing the Oakville Ford plant.

Health activists claim that smoking bans don't hurt our industry or that sales pop back after a short lull, but their studies suffer from a major flaw because drinking establishments are lumped in with the much larger restaurant sector.

The 2003 study undertaken by the Ontario Tobacco Research Unit is a case in point. This research attempted to measure the impact of Ottawa's 2001 smoking ban on the city's hospitality industry. They used Ministry of Finance sales tax data for bars, licensed restaurants and unlicensed restaurants and concluded that, "There was no evidence that the Ottawa smoking ban adversely affected restaurant and bar sales."

Our association's research department acquired the same data from the Ontario Ministry of Finance and undertook the same analysis but just for the pub, bar, tavern and nightclub sector. We found that in the period studied, the 10 months following implementation of the smoking ban, sales at these drinking establishments were 10% lower than the same period in the previous year. Other studies, such as those in California and New York, which you may have heard about, suffer from this same flaw in methodology: Drinking establishments are lumped in with the much larger restaurant sector, and the economic impact is effectively muted.

On October 1, 2004, New Brunswick introduced a province-wide smoking ban, which has had a devastating impact on drinking establishments in that province. A survey of New Brunswick licensees revealed that pubs, bars and taverns experienced an average decline in liquor sales of 23.9% in the first month of the ban.

On page 6 of our brief, you'll see the trend in sales for Dooly's, a New Brunswick chain of 30 billiard establishments. Five months after the ban took effect, sales are down 15.75% and they're showing absolutely no signs of recovery.

Ontario pubs, bars, taverns and nightclubs are very small businesses with average annual sales of just \$499,000 and an average pre-tax profit of 3.7%. That generates an annual profit of just \$18,474 a year, or \$50.61 a day. These operators are hanging on by their fingertips. They can't afford another drop in sales.

More than 700 Ontario businesses have made capital investments in designated smoking rooms at costs ranging from \$15,000 to \$300,000. These businesses, mostly small and medium-sized independents, could ill afford capital expenditures of this magnitude, but this was the only alternative available if they wished to retain their smoking clientele. The vast majority of Ontario DSRs, approximately 90%, were built under bylaws which had no expiry date. In other words, operators made a capital investment on the premise that they had a substantial period of time to earn a payback. Most of them would have based their financial projections on a 10-year write-off, as they do for other leasehold improvements.

In 1999, York region, together with Toronto and Peel region, adopted a phased-in bylaw which steadily reduced smoking in hospitality establishments in three stages. Local operators planned and invested according to the letter and the spirit of those bylaws, which is still described on the York region Web site as follows: "The third and final phase of the bylaw will come into effect on June 1, 2004.... The bylaw includes the option to construct a completely enclosed and separately ventilated designated smoking room...."

Operators, in other words, were explicitly told that designated smoking rooms were the final phase of the York region smoking bylaw. That final phase came into effect just 11 months ago. That's the regulatory regime under which more than 100 York operators made their DSR investments. These investments were made in good faith to comply with the prevailing jurisdiction of the day—municipal government. Now they're threatened by provincial legislation in the form of Bill 164. In legal terms, this is called "detrimental reliance," where one level of government withdraws what another level has given. The layman might call it "expropriation of opportunity." We call it unconscionable.

The table on page 7 of our submission shows that only a few municipalities established an expiry date when they passed bylaws permitting DSRs, and those are 2006 in Burlington, 2008 in Hamilton and 2009 in Milton. Most communities, like Toronto, Windsor, Niagara region, York region and Peterborough, do not have expiry dates on their DSRs.

Two communities in Ontario, Mississauga and Brampton, didn't have an expiry date in their original bylaws, but they subsequently chose to establish one. I strongly recommend that this committee look at the process and the ultimate decision that Mississauga and Brampton city

councils arrived at when they modified their smoking bylaw in 2003. After extensive public hearings, these municipalities agreed that operators had built their DSRs in good faith and they deserved an opportunity to earn a financial payback. As a result, the bylaws were modified to phase out DSRs in 2010. This is a fair and logical compromise, a balance between public health and the prevailing regulatory environment under which these businesses made investment decisions.

A longer transition period is also required while government cessation programs take effect and reduce the incidence of smoking among our customers. It is widely recognized that quitting takes time and frequently requires several efforts by the smoker. As a result, many operators take cold comfort in assurances that Bill 164 will place the industry on a so-called level playing field. Because of its addictive nature, smoking does influence consumer behaviour. Most smokers will dine out in a fast food or a family-style restaurant and not expect to smoke, but in drinking and entertainment establishments, like pubs, bars, taverns and nightclubs, experience shows that many smokers will reduce their patronage and their purchases in response to a smoking ban.

In reality, a true level playing field can't be achieved as long as tobacco is available and people want to or have to smoke it. Consumers can always drink, socialize and smoke in private homes or, in the case of border communities, patronize the bars, pubs and casinos of Michigan and Quebec, where smoking is still tolerated in public places.

The Chair: You have about a minute left in your presentation.

Mr. Needham: OK, and that should do it.

Bill 164 bans smoking on a selective basis. What we've got to do is encourage people to stop smoking everywhere. That's a level playing field. Government is acknowledging that reducing and ultimately eliminating smoking is a process that requires time. The hospitality industry needs a similar approach.

While we transition to a smoke-free Ontario, DSRs give legislators the tools to regulate customer and employee exposure to second-hand smoke. Proper design of the DSR ensures that non-smoking customers can visit any establishment without the irritation of second-hand smoke. DSRs also provide opportunities to reduce or eliminate employee exposure. A separately ventilated room with stringent airflow standards does reduce the concentration of smoke to which employees are exposed, but several jurisdictions have taken additional steps: British Columbia limits employee time in a DSR to 20% of their shift; Toronto's revised bylaw does not permit a bar or service area in the DSR; and Prince Edward Island only permits employees to enter the DSR to clean up so that customers have to leave it to get service.

In summary, our association supports the intent of Bill 164, but achieving that goal is a transitional process in which public policy and business practices need to move forward in tandem. As a result, we recommend that Bill 164 be amended to permit designated smoking rooms until 2010. Thank you.

The Chair: Thank you. This round of questioning will go to the NDP.

Ms. Martel: Thank you for being here today. I'll give you my position and then you can respond to it. I think I owe that to you.

I'm supportive of an earlier phase-out and compensation to those owner-operators who, given the bylaws that were in place at the time, made a decision to invest, believing that they would be able to recoup that investment, either within the sunset clause, if there was one, or would be able to do it over a longer period. That has been the position that we have taken.

I've got to tell you why I can't support a longer phase-out. I'm really skeptical of the effects of DSRs. I'm on the side that says, "I don't think they are terribly effective," and that, at the end of the day, other patrons in an establishment are being affected. I'm also concerned that staff just end up in DSRs because they're serving, and what staff person is going to tell their boss no, if that's going to risk their job?

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Secondly, I'm thinking about a presentation we had this morning from a bar owner who said that as a consequence of the Legion being exempt, they knew that they were losing patrons to the Legion because people were still able to smoke there. I think, if that's happening in that circumstance, it's probably happening in scenarios where those bars that had enough money or space to have a DSR are doing better, relatively speaking, than those establishments that couldn't afford or didn't have the space to put a DSR in place. So the longer you have some establishments with DSRs in place, the longer you have that discrepancy between bar owners who may benefit—and I say that recognizing your position—and those who can't from being able to attract patrons.

That's why I'm supporting the earlier phase-out, but also urging the government to look at compensation for those establishments that got caught putting in a DSR when that was the bylaw that was legitimately in place at the time.

Mr. Needham: Compensation is certainly an alternative, and I know that most of our members, DSR operators, would feel it was better than nothing, but they're legitimately concerned about the impact on their business even if they are compensated. I mean, these guys put in a substantial financial investment for very real reasons. It wasn't on a whim. They did it to hold a certain business. One of the things they need is time, not only to pay off their DSRs, but also to adjust their business models, because it's going to be a different type of business environment out there once the traditional bar is out of business.

Ms. Martel: But you would have seen people having to make the adjustment now. I mean, in the communities where the bylaws are in place, you've got one of two things happening: those businesses that could afford to have a DSR, if they were permitted under the bylaw, and those that couldn't. Those that couldn't would have been operating for some time now under a much changed envi-

ronment. I mean, some of those folks must come back to you and say, "I'm suffering a loss. Joe's bar down the street that had the ability to have a DSR is not suffering the same loss that I am." I don't want everybody suffering a loss, but you must, among all of your membership, be getting that argument yourself, that the longer some establishments have a DSR and the longer those who don't are out there, you're seeing a discrepancy there.

Mr. Needham: The response is, "Why didn't you put a DSR in?" They had that option. Because you're quite right: Some put them in; some didn't put them in.

Ms. Martel: But a lot of people wouldn't have had an option just because of physical space, or maybe the landlord, if they didn't own their building—they were renting or leasing—said, "No, I'm not going to make the capital improvements to allow you to have that happen." Not everyone would have had the physical space in their bar to have an area for patrons that was non-smoking and an area for patrons that was essentially a designated smoking area.

Mr. Needham: I'm not aware of any circumstance—I've seen DSRs put in some pretty small bars. They're small smoking rooms, really. They've been glassed off, and then a separate ventilation area put in.

Ms. Martel: OK. So what you're saying is, from your membership—you probably told us how extensive that is; I'm sorry.

Mr. Needham: It's actually at the front, right after the contents page. It is more than 20,000 operations right across Canada.

Ms. Martel: You would say that you do not hear complaints from your members saying, "Move to a sunset clause as soon as possible, because I am at a disadvantage now because I don't have a DSR"? You're not hearing that?

Mr. Needham: No.

Ms. Martel: I don't think that I have any other questions. I don't know if you wanted to say anything else.

Mr. Needham: It's a very diverse industry. The operators who have put in DSRs put them in for very legitimate and valid reasons. They made a major financial commitment to save their business. This is a very acute situation for these people. They are concerned not only for the investment they've made, but for the loss of business that they know they'll experience.

The Chair: Thank you for the presentation.

CANADIAN AUTO WORKERS

The Chair: We'll call on the Canadian Auto Workers to come forward, please. I note that you have been sitting there for some time. I feel rather compelled, however, to tell you that you have 10 minutes for your presentation. Five minutes of questioning may follow. I would ask you to state your name for the purposes of our recording Hansard.

Mr. Richard Horwath: My name is Rick Horwath. I am an employee at the Great Blue Heron Charity Casino in Port Perry. I have heard quite a bit of talk about

casinos this afternoon and this morning. My position there is as a full-time health and safety WSIB representative, representing the CAW and our members, of course. I've been with the casino a little over five years now, four years in the position of a slot technician, which gave me a lot of time on the floor. For the last eight months, I've been a full-time health and safety WSIB rep. I am here on behalf of myself and the employees of the Great Blue Heron Charity Casino.

For those who are not familiar with this workplace, it's located on native land just north of Port Perry. The casino employs about 1,000 people; about 800 of them are CAW members.

When I posted this notice that I'd be presenting a message on behalf of the employees of this casino, the response was overwhelming. There were countless people coming to the union office to find out what this was about. Everyone wished me luck and expressed their hopes that Bill 164 will be passed. A high majority of the staff of this casino have come to the union office many times over because they have a great deal of concern for their health because of the second-hand smoke in the casino. We have quite a young workforce. Many women in the casino are pregnant or are planning a family, and they have concerns not only for their health but for the health of their unborn child. Many women leave our workplace early in their pregnancy because they do not want the unborn child affected.

I have with me a petition signed by about 400 workers, both union and non-union alike. There probably would have been more signatures, but a lot of people were afraid to sign it. A lot of people don't want to be seen in the union office if they're not a union member. Management is a little skittish at it going around there.

I know that in early 2004, Durham region passed a no-smoking bylaw. Because the casino is on a reserve, the local politicians said that the law had no effect on the casino. The employees were outraged over this decision. After Durham region went non-smoking, our number of smoking patrons increased dramatically. This is because they cannot smoke in other casinos, so they came to our casino. This was great for business but certainly not for the health of the people who work there.

We cannot understand why we did not fall under the smoking bylaw. We are regulated by the Ontario Labour Relations Act. We are run by the Ontario Lottery and Gaming Corp. We must follow the regulations of the Alcohol and Gaming Commission of Ontario. We fall under the Occupational Health and Safety Act. We are regulated by WHMIS for chemicals in the workplace. Why do we not follow the bylaws of Durham region? If a native band were to dump toxins in Lake Scugog or contaminate the land with toxins, they certainly would be fined by the Ministry of the Environment. If they were to violate the Health and Safety Act of Ontario, they would be given an order—and have been—to correct the situation. Why, then, when you consider all the above, can this workplace force its employees to be exposed to the toxin of second-hand smoke?

The members of this casino cannot accept the fact that because we are on a reserve, we have no rights. The native band office on the reserve is smoke-free, but they expect us to work in second-hand smoke. The executive management team has a smoke-free building, but we must work in a smoke-filled environment.

We need a province-wide smoking ban in the workplace. It is needed to protect the health of the employees not only of this casino but of other casinos such as Rama and Casino Windsor, where smoking is still allowed. There can be no designated smoking areas, because no person should be expected to enter these areas to serve our patrons.

For those who do not know the casino industry, I will try to tell you how we are exposed to second-hand smoke every day. As a dealer, you stand or sit just across from the patrons day in and day out. The patrons blow smoke in your face all day long, and there's nothing you can do about it: The more they lose money, the more they smoke.

Employees of the slot department are also exposed to large amounts of second-hand smoke that they are stuck in day after day. When I used to work a night shift on the weekend, there was a haze of smoke hanging in the air throughout the casino. This covers a lot of the ventilation that I've heard discussed. They have a good ventilation system there, it's well maintained, but it doesn't touch the smoke. Like I say, there's just a haze in the air. It's just unbelievable. The weekends are worse, even though during the week it's not acceptable either.

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There are employees in maintenance and house-keeping and servers who are also exposed to large amounts of second-hand smoke. We have employees off work with smoke-related illnesses such as asthma. I have asthma myself and I know how it affects me. I quit smoking over 20 years ago for my health, and now I feel like I smoke again. After all the years of feeling better, I now take asthma attacks again and I must resort to an inhaler that I never used before.

When we bring our concerns to the executive management team, they make it clear that this is part of the job. This is mainly because they sit in a smoke-free environment. The employees are not very happy with that situation.

I was told by our general manager that if the staff do not like the smoke, they can find another job. Is it fair that we have to look for a different line of work just because we're in a casino on a reserve, or any other workplace in Ontario that allows smoking? The employees are not asking for any more than what many workers in Durham and other communities already enjoy: a smoke-free workplace.

I would urge everyone to look closely at the health problems in the casino that I work at, as well as other workplaces that allow smoking. I have spoken to the CAW national office as well as Local 222 in Oshawa, and they support our goals 100%. CAW has always fought for the health of the workforce and supports a smoking ban in any workplace.

I only wish each one of you could come to our staff lunchroom, where they are allowed to smoke. The ceiling and walls are yellow and smell of smoke. Just the sight of this should be enough to show people what smoke is doing to our lungs, and therefore our health. Kitchen staff must enter this room, as well as housekeepers in order to clean. Non-smokers may not have to go in there, but when it comes to your job, your duties, you have no choice.

In closing, the workers of our casino, as well as other workplaces in Ontario, need the help of our government. Help us to work in a smoke-free workplace.

I would like to thank you for your time and allowing me to speak not only for myself but on behalf of all the employees at our casino.

The Chair: Thank you, and the questioning will go to the government.

Mr. Fonseca: Thank you for your presentation on an issue that has some unique challenges. I know that the minister has already met a number of times with the aboriginal community, First Nations, and has met with Chief Charles Fox in regard to this. Chief Charles Fox has been in favour of a smoke-free Ontario. We recently had meetings with the aboriginal community, and Attorney General Michael Bryant, under the Ontario Native Affairs Secretariat, has met with the leaders of the different First Nations aboriginal community in discussing the smoking strategy on reserve, or the smoke-free strategy on reserve.

I had a chance to visit, to actually live on, the Nipissing reserve for a week and experience what many of the youth on reserve are going through. Many of them feel that there isn't a sense of hope and have taken up smoking. We know the incidence of smoking on reserve is as high as 60-odd per cent, where off reserve we're at about 20% here in Ontario.

Dr. Sheela Basrur, our chief medical officer of health, earlier this year met with First Nations leaders, and we're working toward a strategy that will hopefully bring a smoke-free Ontario to all parts of Ontario, including reserves. That's what I can tell you right now.

Mr. Horwath: OK. Thank you.

The Chair: Any further questions? Mr. Wilkinson.

Mr. Wilkinson: Thanks, Richard. Just a quick question. The other reserves involved, Rama and the other one, are they also CAW?

Mr. Horwath: No. The only other casino that is CAW at this time is Casino Windsor. My counterpart is going to be speaking in Tillsonburg, I believe, next week. I did also hear—it was in the paper; I didn't see it personally—that Rama was voluntarily going to implement a no-smoking bylaw. I don't know whether that's true.

Mr. Wilkinson: As you know, it's a constitutional issue; it has to do with aboriginal rights. It's kind of a land mine as you work it. It's not that the provincial government can just come in and impose it, but we're working with people to try to do that and we're very encouraged by some of the aboriginal leaders who understand that.

I was really interested in hearing about how your workers are in a smoking environment, and the people in management and the people on the council are smoke-free.

Mr. Horwath: That's correct.

Mr. Wilkinson: You guys are in there chewing on the blue smoke while they're smoke-free. I was just wondering, do you know whether that is the case at the other casinos, Rama and the other one?

Mr. Horwath: No, I don't. I've never been to another casino. I'm not a gambler.

Mr. Wilkinson: Neither am I. I know how you feel—no offence.

Mr. Horwath: It would be interesting to know that.

Mr. Wilkinson: It would be, yes. We'll work on that. Thanks so much, Richard. I appreciate it.

The Chair: Thank you for the presentation.

Now we have a point of order notice from Mr. Ouellette.

Mr. Ouellette: I have a question for the PA. While in Oshawa, I was hoping that one presenter would have been able to come forward. When I was doing the research on this, I met various industries. An industry came to me that had some strong concerns, and I don't see them addressed in the legislation. We're looking at possibly section 8, which amends section 9 of the current Tobacco Control Act, 9(9) on page 6 in the legislation.

Governments of all stripes have tried to attract certain sectors and certain businesses to Ontario. The sector that came to me that had some strong concerns was the movie sector. They have a large sound stage in Oshawa, where all of a sudden these individuals will be smoking during the filming of a movie. How are they going to be affected by this? They wanted to know that. I didn't see anything that addresses that in the legislation.

I don't know if the PA has any response to that at all.

Mr. Fonseca: Actually, Mr. Wilkinson would like to speak to that question.

Mr. Wilkinson: I had a similar issue raised by the Stratford Festival and a number of the theatres in regard to artistic freedom and the ability to portray the smoking of cigarettes because it may be integral to the piece of art that is being created or recreated.

I can tell you that what they do in Stratford is, they don't use cigarettes; they use an herbal substitute, because Stratford is smoke-free as a community. They put it in all the programs that they are not using tobacco so that the employees, the actors and the people behind stage and the patrons are all kept safe.

I actually had an inquiry to the Ministry of Health about that, because the bill is quite specific about tobacco, and they assured me that the use of a non-toxic substitute was not precluded in the bill. They're very specific about tobacco. I would assume that that would carry over. It's not my understanding that there is any huge additional cost for a movie set to actually have to buy these substitutes. I think they would be in compliance with the law and it would help them keep a safe working environment for the workers making the movie or being onstage.

Mr. Ouellette: So, essentially, what I'm hearing is that the question has been addressed in the Ministry of Health, and hopefully the PA will make sure, through the ministry responsible, that that's somehow assured.

Mr. Wilkinson: I know that they'd be more than happy, if asked, to try to clarify that. I would encourage whatever industry that came and spoke to you that it's well worth their effort to write the minister and ask for clarification. I think it'll come. I know that's provided for CanStage, the Stratford Festival and the Shaw Festival. A number of them have asked it collectively. That's what I would encourage.

YOUTH TOBACCO TEAM,
THE LUNG ASSOCIATION

The Chair: Thank you very much. Now we'll get back to our presentation at hand, the Youth Tobacco Team of the Lung Association. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard. You may begin.

Ms. Kathryn Leadbeater: Hello. My name is Kathryn Leadbeater. I'm 14 years old and I'm from Cobourg, Ontario. I am currently a member of the Youth Tobacco Team, or the YTT, for the Lung Association. Basically, it's a team of 10 students from all across Ontario, ages 14 to 18, and we work with the Lung Association to help promote non-smoking. Today I'll be speaking on behalf of the Lung Association and kids from all across Ontario.

I have a couple of points that I want to make. The first one is that smoking is obviously not a good thing and we need to make it clear that when kids see adults smoking, it gives us the thought that it's OK to do it, when really it's not. As firm supporters of this act, we feel that we need to see less smoking in our communities.

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I also feel strongly about the banning of power walls. I know it was said earlier that it's just going to be counter displays that will be removed, but that also has a really big impact. When we walk into the stores, it is something that our eyes are immediately drawn to. We need to get that out of the way so that we don't see it any more.

People make it clear that street drugs are very dangerous to the health of kids, because they're mainly the ones who do it, but adults don't make it clear to kids that nicotine is dangerous as well and that it is in fact one of the most addictive drugs there is. If we get this, it will likely help to attain that.

Earlier it was asked what the government can do to help kids to reduce their smoking, and how they can occupy their time. With the power walls gone, that will help a lot. With youth groups and centres—in my community of Cobourg, there aren't that many, and most of them have to do with churches, so a lot of people don't go to them. But if we had more, and if we got money from the government to do that, I think that would have a

great impact, and it would definitely help occupy students' time.

On a personal note, I was offered my first cigarette when I was in grade 4. That was almost five years ago, so you can probably imagine how much earlier it's becoming now. With street drugs and smoking in every grade, it really does start when you're very young. I think it has to be made clear even to really young children in elementary schools that it's very bad. It needs to hit them and be driven in that it is really bad, and that they need to not do it.

In conclusion, I would just like to say that in order to denormalize tobacco use in Ontario so that the youth of today can stop smoking and the youth of tomorrow don't start, the effort to remove power walls and to make Ontario completely smoke-free needs to be continued.

The Chair: Thank you. This round of questioning will go to the official opposition.

Mr. Barrett: Thanks a lot. You just came in from Cobourg today, did you?

Interjection.

Mr. Barrett: It's good that we got you on the schedule. It's a long trip for nothing.

You mentioned smoking in every grade. Does your group go into the elementary schools and talk to the younger kids?

Ms. Leadbeater: No, we haven't started that yet. We've only actually had one meeting. It's supposed to be that we have three meetings a year plus telephone conferences. We take the information back personally to talk to our own schools, so it's not something we do as a group. The only things that we do as a group are province-wide. Talking to elementary students and students in our own communities is something we do personally with our health unit.

Mr. Barrett: Do you launch other initiatives? You're in high school, are you?

Ms. Leadbeater: Grade 9.

Mr. Barrett: Do you sponsor assemblies, or bring in—

Ms. Leadbeater: Right now, at my school, we are about to launch a new program. On Tuesday, we're having our first assembly, and it's a quit-and-win. It will last for about four weeks. We have students sign up with a non-smoking buddy. They can get tested with a CO detector and have their name put in draws for prizes. We have about \$1,500 to run that.

Mr. Barrett: Do you get businesses downtown involved in sponsoring things?

Ms. Leadbeater: Yes. We got some of our money through the police station, who went around to the businesses to ask for money.

Mr. Barrett: OK. You've got good partners there with the officers. I know you're lobbying here, but a lot of your work then would focus on public awareness beyond just in the school?

Ms. Leadbeater: Yes.

Mr. Barrett: What are some of the other plans or things you're working on?

Ms. Leadbeater: I know something that we did talk about, but it's definitely not for sure at all, is just province-wide things to do. One was the thought of doing a 30-hour no-fumin' type thing, where everyone in Ontario, if they wanted to participate, would stay smoke-free for at least 30 hours. But that was only a small discussion, so it might not go through.

Mr. Barrett: OK. You've got some great ideas there. I'd be very interested in your future plans. Like you say, you've only had one meeting; is that right?

Ms. Leadbeater: The Youth Tobacco Team has been in existence since 2001, but each year new members are brought on. I've only been involved in it for this year.

Mr. Barrett: I see. Great. Thank you.

The Chair: Thank you for your presentation.

FRONTIER DUTY FREE ASSOCIATION

The Chair: I would call on the Frontier Duty Free Association to please come forward. Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard, and you may begin.

Mr. Chuck Loewen: Thank you very much for this opportunity, ladies and gentlemen. I'd like to introduce, to my right, Heather Howard from 1000 Islands Duty Free, Jeff Dyer from Johnstown Duty Free, André Bergeron, representing the Canadian Airport Duty Free Operators Association, and myself, Chuck Loewen, from Peace Bridge Duty Free in Fort Erie, Ontario.

On behalf of the Frontier Duty Free Association and the Ontario operators, we'd like to make a presentation concerning Bill 164, the Tobacco Control Statute Law Amendment Act, 2005.

We believe Bill 164 is designed to protect the health of the people of Ontario and, in particular, to tighten the restrictions on selling tobacco to young persons. The duty-free industry agrees with these principles and applauds the efforts of the provincial government in the ongoing campaign to restrict smoking in young people.

As background, the federal government, through Revenue Canada, initiated the Canadian land border duty-free shop program in 1982.

Tobacco, which once represented over 50% of our sales, now averages around 20% of a store's sales. Stores are increasing their offering of non-tobacco products as tobacco sales continue to decline.

Eleven of our thirty-six stores are located along the Ontario-US border, as well as at three international airports in Ontario: Ottawa, Toronto and Thunder Bay.

Information provided by Imperial Tobacco is that Canadian land border duty-free shops' tobacco sales represent less than 1% of their tobacco sales in both their domestic and foreign markets. Sales at duty-free stores represent a very minute share of the total sale of tobacco in Canada; however, these sales are crucial to the jobs of the industry's employees.

We are a very highly regulated industry. Duty-free stores sell only full cartons of cigarettes and only in quantities allowed under personal exemption regulations of the US or the country of destination. No first-time smoker purchases a carton of 200 cigarettes.

All sales at duty-free stores are for immediate export out of Canada.

The US government prohibits the importation of tobacco by any person who is a minor.

All persons making a purchase in duty-free stores must provide identification to the sales clerk. In airport locations, it is a boarding pass. In land border stores, it is the licence plate number from the vehicle in which they are travelling. This process gives the clerk the opportunity to request photo identification to provide proof of age for both liquor and tobacco sales.

Studies conducted by our member stores have shown that over 97% of our tobacco customers are 26 years of age or older. A very, very small percentage of sales are to those persons 19 to 25 years of age, and we do not sell to minors. Also, minors travelling are accompanied by their parents or other guardians, which further prevents these sales.

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Duty-free stores in Ontario are all under contract with the Liquor Control Board of Ontario to sell liquor. Sales of tobacco and alcohol are two key categories in our duty-free shops. Sales controls within the duty-free environment are clearly a world apart from the domestic market, which is much less regulated. We are so very different from the traditional tobacco retailers.

The duty-free industry is a relatively unknown industry to the general public. It is therefore understandable that when the legislators prepared this law, considering our size in tobacco retail, the nature of our business was overlooked. This same thing has happened previously at the federal level and at the provincial level in Quebec. On March 20, 1998, the duty-free industry of Canada received from Health Canada an exemption to section 11, the self-service provision of the Tobacco Act, and in 1998, the duty-free industry of Quebec was granted an exemption from the province of Quebec to a ban on self-service for tobacco in Law #444 by the health and social services ministry.

Ms. Heather Howard: The duty-free industry represents a unique situation in the sale of tobacco to consumers in the Ontario marketplace. We only sell to persons who are travelling immediately out of the country, either by plane or on a direct road from a sterile site at a land border operation.

Clients are of a mature age, have made a conscious decision to leave the country, and are committed to this process by the purchase of a ticket or the crossing of a bridge. They are only allowed to purchase cigarettes by the carton. No single-packet sales are allowed. They acknowledge to the sales clerk that they are aware of the regulations surrounding the sale of tobacco: the age requirement, the quantity restrictions, and the length-of-stay requirements. By the very nature of being a traveller,

it is recognized that their travel time is restricted and they do not spend a long time in our shops.

For these reasons, and these reasons very particularly, we are requesting an exemption from clause 3.1(1)(a), (b) and (c) in the proposed bill that prohibit self-service in the sale of tobacco. We accept the restriction that prohibits the countertop display of tobacco at the cash area. The self-service area for tobacco in duty-free stores is removed from the cash area. The cash area is where all customers, including those not interested in tobacco, must go to make a purchase. We believe it is more sensitive to families and those who are not interested in purchasing tobacco to not have to be near the tobacco, if that is their choice. This will still permit those adults who wish to make a purchase to do so in a convenient and timely manner.

We ask you to consider the fact that all of our stores are under contract with the LCBO to sell alcoholic products in a self-serve venue. The LCBO has relicensed our stores many times, indicating our compliance record with all of the minimum age requirements that are in effect. We have never had a licence revoked. Tobacco that is sold by the carton in a self-serve venue is as secure as the liquor we sell. The removal of this self-serve venue would have a severe negative effect on our businesses. It would result in large capital expenditures. It would also cause people who are coming into our stores to just come into the cash area and not allow them the opportunity to travel throughout the store and see the other products we sell.

We're a small industry in Canada whose employees still need the sale of tobacco to maintain their jobs. Creating an environment where self-service does not exist would put our shops at a distinct disadvantage with our immediate competitor, the American duty-free shops.

Border-crossing fees, the price of a plane ticket, customs allowances and carton-only sales ensure that the duty-free industry does not become an economical regular source of tobacco, nor an incentive to potential new or young smokers. We trust that you will consider the exemption of our stores to the self-service restriction that this new legislation is proposing. Allowing us to remain competitive will in no way interfere with the goals of this legislation. Thank you.

The Vice-Chair: Thank you for the presentation. We will now go to the NDP for questions.

Ms. Martel: Thank you for your presentation. Let me make sure that I understand this. The section that you're concerned about has to do with a purchaser handling the product before purchasing it.

Ms. Howard: Right.

Ms. Martel: Because in your stores that would not be at the counter where you're paying; it would be somewhere else in the store. How many tobacco products do you carry?

Ms. Howard: Do you mean types? We sell cartons of cigarettes. We sell the major brands: Imperial, Rothmans and JTI. I'm not sure I understand the question.

Ms. Martel: You said it would be too expensive to try to move that up to the counter where people are paying,

and I'm trying to visualize how much space tobacco products would take up in a duty-free store now, that would make it, as you say, really cost-prohibitive to move that to the front near the cash.

Mr. Loewen: It all depends on the size of the store. For example, in our store the actual display of tobacco represents perhaps three or four per cent of the floor space. In other stores, it may represent a little more if they have more tobacco business. But in each event, the majority of the floor is covered with other products. The point was, to physically move the fixtures behind the counter in all our stores would mean a major capital expense from a store layout refixturing standpoint. That's where the capital expenditures would come from.

Ms. Martel: Is that because what you have at the cash is essentially just the cash?

Mr. Loewen: Right. Yes.

Ms. Martel: You don't have a counter; you don't have—

Mr. Loewen: Yes, and the other point that Heather made was that the public who does not want to be exposed to tobacco products don't have to go to the tobacco department. They would be exposed to tobacco products at the cash registers.

Ms. Martel: OK. I'm not sure if other people have questions. I'm just trying to think this through. This is a different presentation than we've heard before, so I'm trying to—

Ms. Howard: I think that's actually the point we're trying to make: We are a very small industry, but we're very different. We don't sell by the pack; we only sell by the carton. It's not at the cash area; in most retail operations, that's where tobacco is located. We've already had an exemption because of this unique situation. We've included in our leave-behind notes the letter from Health Canada recognizing the situation.

Mr. Barrett: I see in the documentation that it was in 1997 that Health Canada gave you an exemption, and I'm sure they gave you a rationale for the decision. We've had similar presentations even today from tobacconists—they don't sell gum; they don't sell candy or pop. The people who enter the 700 tobacconist shops are there to purchase just tobacco and nothing else. As I recall, they're asking for two different amendments to this legislation. I don't know whether you've been in touch with them, but they have some similar situations.

Ms. Howard: I think they do have a similar situation. We have a small tobacco store within our store. We do sell other products, but within each store there is a specific area where they sell tobacco. We don't spread it among all the various commodities. It's located in a very specific area, which in most stores is quite a distance from the cash. Putting tobacco up at the cash, in a back wall or whatever, would actually be counterproductive to what you're trying to do, I believe, in our situation.

Mr. Barrett: I guess, by analogy, there doesn't seem to be a problem with the Ontario government through alcohol licensing with respect to people actually picking up a 40-ouncer of rum and walking around with it,

whereas if it's a carton of cigarettes, there seems to be a distinction.

Ms. Howard: Well, there would be—

Mr. Loewen: There would be with this law.

Ms. Howard: —with this law. Right now, there isn't, because we've been exempted from Health Canada federally. So right now, we treat tobacco and liquor with the same due diligence when people make purchases, to make sure no minors—

Mr. Barrett: I was saying the government indicates you can pick up a bottle of alcohol and take it to the sales clerk, but you can't pick up a carton of cigarettes under this proposed bill.

Ms. Howard: That's right. That's exactly right.

Mr. André Bergeron: The issue here has to do with the first-time user, among others, where we are majorly different. First-time user studies have shown they buy a single pack, try different brands over a period of time and need regular access. In duty-free, we sell a carton of cigarettes, not a single pack, and we don't have ease of access to the store. You have to put down the price of an airplane ticket or you have to go through to the United States; you want to cross the border. That's one major difference with any other tobacco retailer.

In regard to your question about space, we do receive a large number of people at the same time, such as in an airport, and the same thing also with a number of border shops that have tour groups and have a number of buses, so you need a certain amount of space to display tobacco products. When you think duty free, you cannot only think of a 400-square-foot store. Some of those stores are 10,000 and 15,000 square feet.

The Chair: Thank you for your presentation.

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CANADIAN CANCER SOCIETY

The Chair: I call on the Canadian Cancer Society national office to please come forward. Good afternoon. You have 10 minutes for your presentation. There will be five minutes of questioning following that. I would ask you to identify yourself for the purposes of Hansard.

Mr. Rob Cunningham: Thank you, Mr. Chair and members of the committee. My name is Rob Cunningham. I work as a lawyer and senior policy analyst for the national office of the Canadian Cancer Society, based in Ottawa, and I'm the author of this book, *Smoke and Mirrors: the Canadian Tobacco War*. I've been involved in tobacco control since 1988, and in my work I specialize exclusively in the area of tobacco and the law, mainly with respect to legislation. Also, the Cancer Society has intervened in a number of court cases against the tobacco industry, and I recently appeared before the Supreme Court of Canada as co-counsel in the Saskatchewan case involving retail displays. We know the fortunate outcome of that case.

In research for the book, one thing is typical historically: for many decades we've heard that if a particular type of legislation is adopted, jobs are going to be lost.

We heard that if advertising is banned on radio, radio stations are going to close; if tobacco is banned from sale in pharmacies, pharmacies will close; if smoking is banned from retail stores, according to bylaws in the 1970s, retail stores are going to close, and non-smoking sections in restaurants would mean that restaurants were going to close. The sky has never fallen, despite predictions ahead of time.

Second-hand smoke is a known health hazard, recognized by Health Canada, including package warnings at the present time, and recognized as a cause of lung cancer by the US Surgeon General as long ago as 1986. The courts in Canada, including the Ontario Superior Court, conclude that second-hand smoke causes disease.

The trend to smoke-free workplaces and public places is worldwide in nature. There are already three provinces and two territories in Canada that have legislation in force; seven US states—you can see them listed on the handout you've received, the one-page fact sheet—California, New York, Maine, Connecticut, Delaware, Rhode Island and Massachusetts, and the list grows; country-wide laws in New Zealand, Norway, Ireland and most states and territories in Australia, and the list grows, and no designated smoking rooms in any of these jurisdictions.

The tobacco industry knows that these laws reduce smoking. That's why they provide money to oppose these laws, why they fund MyChoice, why they fund the Fair Air Association of Canada and why sitting beside Ms. Daigneault at yesterday's committee hearing was someone from Association House, a tobacco industry public relations firm.

On the issue of compensation, we must recognize that businesses that have established designated smoking rooms have already had an opportunity for some tax write-off through capital cost allowance. When designated smoking rooms close, they will reduce costs because of reduced ventilation expenses.

Some bylaws, such as in Ottawa, which initially regulated office workplaces, permitted designated smoking rooms. When the amended bylaw was adopted, there was no compensation, nor was there compensation when Ontario banned tobacco sales in pharmacies or through vending machines. Of course, there's a very substantial three-year transition period since the policy was announced in 2003.

On the issue of patios, we support an extension of the policy that has been successful in 12 or so municipalities in Canada to ban smoking on all patios outdoors to ensure a level playing field, in particular to help the small business person. The minister's intent, expressed on first reading, was to ensure that smoking would be allowed on true outdoor spaces. I would urge the committee to have a look at the definition and the wording in the bill to ensure that that expresses the minister's intent. We can provide a proposed amendment for clarification later.

To ensure that we don't have problems such as in Ottawa, what is an enclosed patio? There are some establishments that have heaters all winter, that have pool

tables, that have televisions on their so-called patios. It's an abuse. It's very difficult to define what an enclosed public place is, what is enclosed and what is not. If you simply have a roof, that's very clear and straightforward: If there's a roof, you can't smoke on that part; if there's no roof, fine, that's outside. That is an innovation that should be pursued.

One of the reasons the tobacco industry wants smoking to continue in bars is because they know that young people are there. People can have a few drinks, lose their inhibitions, have a cigarette, and then suddenly an ex-smoker is back to being a daily smoker. The tobacco industry continues promotions in bars through the use of scantily clad cigarette girls. If designated smoking rooms continue, their promotions can continue in bars. Let's face it: Many teenagers have fake ID and they get into bars.

This is a segue into displays. This is one type of retail display, a display at point of purchase. It is important that this bill continue with what we've seen in Saskatchewan, Manitoba and other jurisdictions such as Iceland: a ban on retail display. That's not currently the wording in the bill. We would like to see an amendment, inspired by Saskatchewan and Manitoba, so that there is a true ban. Since first reading of this bill, we've seen a Supreme Court of Canada unanimous judgment upholding the Saskatchewan legislation. It's opportune that the bill be amended accordingly. At the moment, the regulatory authority would allow a nuclear bomb to be dropped on the intent of the act to allow widespread displays to continue.

We'll be submitting to you a technical amendment in terms of the French translation. There is just a drafting error, which means it means something different than the English. It is important, as a further amendment, that displays be completely invisible, except at the moment the product is given to the consumer.

In terms of the theft argument that we heard, I would submit respectfully that this is nonsense. A ban on displays would reduce the risk of theft. When there were hearings in Prince Edward Island, an all-party legislative committee unanimously recommended a ban on displays. A Charlottetown police officer testified that prominent displays encourage break and enters, and the more inventory you have, the greater the encouragement for thieves. There's no evidence from the experience out west that we've had an increase in theft. Some retailers, on a voluntary basis, when the law was not being enforced during the court proceedings, kept their cigarettes out of sight to reduce the risk of theft, even though that was only on a voluntary basis.

In terms of cost, a mere five-cent-per pack increase would cover the entire \$88 million a year in Canada-wide payments—less than 1% of the price. Retailers can easily recover payments that they have now. Perhaps a third of retailers currently receive no payments from the industry. And we must keep in mind that several hundred million dollars per year in revenue is earned by retailers from illegal sales to minors who are underage, so already they

are part of the problem causing teenage addiction. They profit from it, and yet they ask for further consideration. Everyone says, "Oh, no, we don't sell to minors. We take good care." But we know as a sector, from statistics, that a regrettably large number of establishments are doing that.

It used to be in Ontario that 20% of cigarette sales were done in pharmacies. That's banned, so the remaining retailers have that advantage that they've benefited from. In a sense, they've already received some compensation.

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Even if there were a cost, should it be acceptable for some to increase their income in order for kids to get addicted and others to die? I suggest not. When Ontario banned drinking and driving in terms of enhancing the strength of its laws, it's clear that some auto repair shops would have had less business because there would have been fewer accidents. But should we have delayed implementation of those laws or weakened them? Of course not.

Retail displays increase consumption. They encourage impulse purchases. We must recognize that there are many other companies who want that space, who are prepared to pay retailers for that space and who can't get it because it's tied up by cigarette companies. There will be incremental revenue from other suppliers.

Who is paying compensation to the family who loses a wage-earner? The government doesn't pay compensation, even though it may have been the manufacturer several decades earlier who made cigarettes and smoking attractive to that individual who became addicted and died at age 47 from a heart attack or from lung cancer.

The Chair: You have about a minute left.

Mr. Cunningham: Thank you.

We know that the industry targets children. The government recognizes this. The minister has indicated his commitment, as well as all parties. Do you want the tobacco industry to succeed in attracting teenagers? The primary way today, in terms of marketing expenditure, is through point of purchase. Should it continue? No way.

On behalf of the Canadian Cancer Society, let me thank you for your time and urge you to consider those particular amendments that would strengthen the bill.

The Chair: Thank you. This round of questioning goes to the government.

Mr. Fonseca: Thank you, Mr. Cunningham, for your presentation for the Canadian Cancer Society, and for bringing a national perspective on this issue. As we take a leadership role here in Ontario toward a smoke-free Ontario, and hopefully one day a smoke-free Canada, there have been different presenters who have come forward with different, unique circumstances. We just heard the last one come up, and that was around duty-free shops. That's the first time that that unique circumstance has fallen in my lap and maybe of many of the other members here on this committee. Can you give me a national perspective on that?

Mr. Cunningham: Sure. Other provinces that have adopted controls on displays have not exempted duty-free stores: for example, in Saskatchewan's legislation. In Nova Scotia's legislation, which is not as extensive, so far it only bans countertop displays. It bans self-service displays. In the Halifax duty-free shop, there are no self-service displays. It is possible for a province to do that. If the argument is—and I don't agree with it—that displays have no impact on consumption, then supposedly, in duty-free stores, it will have no effect on their sales volume, and they should not object to a display ban.

Mr. Fonseca: I'd also like to ask: Around patios—I know you've seen many different patios or makeshift rooms around the nation—what would be a good working definition for a patio? What do you feel would be an open-space patio?

Mr. Cunningham: Of course, the easiest thing is a total ban. Once you have exceptions, you have to have a definition, and it becomes more complicated to interpret that and to apply it. A total ban is the best. I think the second-best is that if there's a roof, you can't smoke anywhere under the roof. It's simple and it's easy to apply. When you start with whether a percentage of your wall is open or closed, it becomes very complicated. Municipalities have had great difficulty.

One other point related to duty-free stores: Some other provinces, such as Saskatchewan, Nova Scotia and Nunavut, have not had exemptions for tobacconists. Once you have a loophole like that, we've seen that that gets exploited, new kiosks get established and it creates a problem that was never intended. It should not be allowed.

Mr. Fonseca: Mr. Wilkinson also has a question.

Mr. Wilkinson: Just a quick question since we have you here, Rob, and you're a national expert on this. You referred to the question of these power walls and the case in Saskatchewan. Since you were involved in that, I wonder if you could bring your insight on your experience in that.

Mr. Cunningham: The same arguments that this committee has heard were heard during the legislative process in Saskatchewan. It's the same thing all over again. That was considered and rejected with all-party support in the Saskatchewan Legislative Assembly. As other types of advertising are restricted, the point of purchase becomes very important. We know from other sectors how companies pay to encourage impulse purchases. Confectionery seen is confectionery sold. For a large percentage of sales in many categories, it increases overall consumption. The tobacco industry knows it. If it had no impact on overall demand, they would welcome such a ban, because they would have reduced marketing expenses and increased profit. This is a trend worldwide, as we're seeing in Australia, South Africa, Ireland, Iceland and others looking to take action or taking action.

The Chair: Thank you for your presentation. I'm not making any comment on the content of any particular presentation today, but we did have a number of youth groups and associations appear before the committee today. I thought they did an excellent job of at least appearing before the committee: 12 people around a table in front of them and an audience behind them. I thought they did very well. That's not to make a comment about what they said, but they did present very well, and I commend them for that.

This committee is adjourned.

The committee adjourned at 1525.

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