

# Item No. 7



## Notice of Motion

### Title: Restriction of Vaping Advertising on TTC Property

Moved by: Commissioner Alan Heisey

Seconded by: Commissioner Joanne De Laurentiis

#### Summary

WHEREAS, the *Tobacco and Vaping Products Act* (the “Act”) was enacted on May 23, 2018, to regulate the manufacture, sale, labelling, and promotion of tobacco products and vaping products sold in Canada.

AND WHEREAS, in respect of vaping products, the purpose of the Act is to protect young persons and non-tobacco users from inducements to use vaping products, protect the health of young persons and non-tobacco users from exposure to and dependence on nicotine that could result from the use of vaping products, protect the health of young persons by restricting access to vaping products, prevent the public from being deceived or misled with respect to the health hazards of using vaping products, and enhance public awareness of the health hazards of using vaping products.

AND WHEREAS, the Act creates a national minimum age of access for vaping products of 18 years of age. Currently, the Act does not prohibit the advertising of vaping products but provides significant restrictions on the promotion (advertising) of vaping products, such as bans on advertising that appeals to young persons, lifestyle advertising, sponsorship promotion, giveaways of vaping products or branded merchandise, promotion by testimonials or endorsements, and product promotion of certain flavours (like candy, dessert, or soft drinks) that may be appealing to young persons.

AND WHEREAS, the Act further provides that the promotion of a vaping product by advertising cannot be in a manner contrary to the regulations. However, there are currently no regulations pertaining to vaping promotion (advertising).

AND WHEREAS, Health Canada is working on vaping product promotion regulations (listed on Health Canada’s Forward Regulatory Plan for 2019-2021).

AND WHEREAS, in February 2019, Health Canada posted a consultation paper entitled “Notice of Intent – Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth and Non-users of Tobacco Products” (the “NOI”).

AND WHEREAS, the NOI describes the regulatory measures under consideration to help reduce the impact of vaping product advertising on young persons and non-tobacco users.

AND WHEREAS, the NOI focused on restrictions on the placement of advertisements in various locations (namely at point of sale where young persons have access, in public places, in broadcast media, and in publications), restrictions on the content of advertising by requiring the display of a health warning and visual content, and restrictions on other forms of retail promotions (such as the display of vaping products).

AND WHEREAS, although Canada has not experienced the same significant increase in the use of vaping products by youth as in the United States, recent studies indicate that the rate of use of vaping products by Canadian youth has significantly increased since 2014 – a shocking 64% to 74%<sup>1</sup>.

AND WHEREAS, in fact, the rapidly increasing rate at which Canadian youth are trying and using vaping products prompted Health Canada to issue a letter to vaping products retailers in June 2019 reminding the retailers of their responsibilities under the Act, in particular with respect to youth, and that contraventions of the Act will result in enforcement action being taken.<sup>2</sup>

AND WHEREAS, the Minister of Health, Government of Canada, also issued a letter to vaping retail associations in September 2019 advising of the trend and reminding the retailers of their part in the responsibility to protect the health and safety of Canadian youth, in particular protecting Canadian youth from accessing vaping products or promotions or inducement to use vaping products.<sup>3</sup>

AND WHEREAS, in September 2019, Health Canada advised Canadians who use vaping products to monitor themselves for symptoms of pulmonary illness and to seek medical attention promptly if they have concerns about their health, and Health Canada and the Public Health Agency of Canada provided national guidance to the provinces and territories on identifying possible cases of severe pulmonary illness related to vaping use in Canada, and the Public Health Agency of Canada requested provincial and territorial public health officials to report probable and confirmed cases in their jurisdictions.

AND WHEREAS, in response, in September 2019, the Ontario Minister of Health ordered public hospitals to report vaping-related cases of pulmonary disease. All this was in the wake of a number of cases of severe pulmonary illnesses and several deaths reportedly linked to the use of vaping products in the United States, which in August 2019, prompted the United States Food and Drug Administration and the United States Centers for Disease Control and Prevention to release a statement of their ongoing investigation into the cause of the illnesses, and issue a health advisor.

AND WHEREAS, the Ontario Government announced on October 25, 2019 that, effective January 1, 2020, the promotion of vaping products in convenience stores and gas stations will be prohibited (the promotion of vaping products will continue to be

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<sup>1</sup> Canadian Student Tobacco, Alcohol and Drugs Survey 2014-2018 (64% increase of 15 to 18 year olds from 2014/2015 to 2016/2017), and Hammond *et. al*, 2019, Applied Public Health, University of Waterloo Survey 2017 and 2018 (74% increase of 16 to 19 year olds from 2017 to 2018).

<sup>2</sup> Director, Tobacco and Vaping Compliance and Enforcement Program, Regulatory Operations and Enforcement Branch, Health Canada, Health Canada's Letter to Vaping Products Retailers, June 14, 2019.

<sup>3</sup> The Honourable Ginette Petitpas Taylor, P.C., M.P., Minister's Letter to Retail Associations Concerning Youth Vaping, September 5, 2019.

permitted in specialty vape and cannabis retail shops where persons must be aged 19 or older to enter).

AND WHEREAS, of the approximately 1.7 million daily customers<sup>4</sup> of TTC over 10% are persons aged 18 or younger.<sup>5</sup>

AND WHEREAS, TTC's By-law No. 1 prohibits smoking, including vaping, on TTC property.

AND WHEREAS, as a public entity and in keeping with the recent direction of the Ontario Government, to reduce youth to the exposure to and the influence by vaping products promotion, vaping products advertising should be prohibited on TTC property.

AND WHEREAS, currently, under contract expiring November 17, 2019, there is a vaping product advertisement posted on TTC property.

## **Recommendation**

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The TTC Board directs that:

1. TTC CEO write to the Minister of Health of the Government of Canada and the Minister of Health of the Ontario Government recommending the restriction on the placement of vaping products advertisements in public places, including public transit systems; and
2. TTC immediately advise Pattison Outdoor Advertising that TTC will no longer accept requests for the posting of vaping product advertisements on TTC property, but permit any current vaping product advertisements posted on TTC property under contract to continue until the expiration of the contract, and amend the TTC Advertising on TTC Property policy as required.

**Date:** November 12, 2019

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<sup>4</sup> TTC Operating Statistics 2016.

<sup>5</sup> TTC Transportation for Tomorrow Survey, 2016. Percentage is likely higher as children under the age of 6 do not have their trip recorded and the year of the survey (carried out every 5 years to align with the census survey).