



## Questions and Answers about

# Second-Hand Smoke and Occupational Health and Safety Laws in Canada

### **Which laws protect workers from second-hand smoke?**

There are many federal and provincial laws which cover smoking and workplace issues. Some are administered by health authorities, some by labour authorities. The common denominator in all jurisdictions is that laws on occupational health and safety are highly relevant to the control of second-hand smoke.

### **Which workers are covered by occupational health and safety legislation?**

Every worker in Canada is covered by one law or another. Jurisdiction is split 14 ways. There is one health and safety law for workers under federal jurisdiction, and one for each of the ten provinces and three territories. In addition, the federal government has adopted (but not yet proclaimed) a new amendment to the Criminal Code that requires employers and managers to protect the health and safety of everyone in the workplace.

### **How could occupational health and safety law protect workers from second-hand smoke?**

These laws all have a general duty clause that obliges employers to protect employees from risks to safety and health in the workplace. Every law has a provision that is similar to that found in Section 2(1)(a) of the Alberta *Occupational Health and Safety Act*:

*“Every employer shall ensure, as far as it is reasonably practicable for him to do so,*

*(a) the health and safety of*

*(i) workers engaged in the work of that employer, and*

*(ii) those workers not engaged in the work of that employer but present at the work site at which the work is being carried out...”*

All of these laws, through regulations, limit the amount of harmful chemicals to which a worker can be exposed. In every jurisdiction, there are at least two cancer-causing chemicals present in tobacco smoke to which there should be no exposure. The number of banned cancer causing chemicals that are present in tobacco smoke varies by jurisdiction. It is as high as 17 such chemicals in Ontario. Every jurisdiction recommends no exposure to at least two class A1 carcinogens that are found in tobacco smoke, 2-aminonaphthalene and 4-aminobiphenyl. Both cause bladder cancer and, for both of them, it is recommended that there be “no exposure by any route.”

### **Do we have exact measurements of how much of these two chemicals are actually produced by Canadian cigarettes?**

Yes.

Because British Columbia has required tobacco companies to test and report on 44 selected chemicals in tobacco smoke, including the two mentioned above, we have values for both 2-aminonaphthalene and 4-aminobiphenyl in the 33 most popular brands of Canadian cigarettes. Here are the yields of these two chemicals in the sidestream smoke under “intense” smoking conditions of Player’s Light cigarettes, the most popular brand in Canada.

2-aminonaphthalene            108 ng/cigarette

4-aminobiphenyl                16 ng/cigarette

Values for all other 32 measured brands are similar, and none of them is zero.

***Is smoking really so harmful that we have to ban it in all workplaces with no exceptions?***

Yes. In the 1990s, six major scientific reviews of the health effects of second-hand smoke were carried out. Their results are clear and unanimous.

- **All involuntary exposure to tobacco smoke is harmful and should be eliminated.**
- **Ventilation provides no solution to the problem of exposure to second-hand tobacco smoke.**

Recently, breast cancer has been added to the lengthening list of diseases caused by second-hand smoke. Others include lung cancer, nasal sinus cancer, heart disease, stroke, respiratory diseases and diseases related to pregnancy and infancy. Second-hand smoke causes between 1,000 and 7,000 deaths per year in Canada with as many as 6,000 of those deaths due to workplace exposure. Continuing exposure to tobacco smoke at work is our largest single unsolved problem of occupational health and safety.

***Are any senior levels of government taking real action to protect all workers from second-hand smoke?***

B.C. has banned smoking in most of its workplaces, and so has Prince Edward Island. In both jurisdictions, however, some workers, mainly in the hospitality industry, are still not protected from second-hand smoke at work.

The Workers' Compensation Board for the Northwest Territories and Nunavut has adopted new regulations that will come into force on May 1, 2004. Then, all workers in both territories will be protected from second-hand smoke.

The November 20, 2003 Throne Speeches in Manitoba and Ontario signalled the intentions of the governments of both provinces to ban smoking in all workplaces in the two provinces.

The Ministers of Health of New Brunswick and Saskatchewan have both announced that they want province-wide workplace smoking bans.

Two jurisdictions have taken concrete action to protect workers from second-hand smoke (Northwest Territories and Nunavut), and four more are thinking about it (Manitoba, Ontario, Saskatchewan and New Brunswick). But what about the other six provinces, the Yukon and the federal government? When will all fourteen senior

levels of government move to protect all workers from second-hand smoke?

***Is tobacco smoke exempted from the application or meaning of occupational health and safety laws?***

No. The laws make no exception for tobacco smoke.

In the past inaction on tobacco smoke in the workplace has been justified on the grounds that employers do not bring tobacco smoke into the workplace.

However, this argument is far-fetched when one considers the need for protection from second-hand smoke.

The health evidence is now clear and incontrovertible. Second-hand smoke is a serious health hazard in the workplace and it needs to be controlled.

A workplace with tobacco smoke in it is not a healthy workplace. Governments have special responsibility to help employers fulfil their general duties to provide safe and healthy workplaces.

Governments can help by providing the necessary legislation and regulation to require smoke-free workplaces.

***What steps can be taken to change occupational health and safety laws and regulation to protect all Canadian workers from second hand smoke?***

Full protection for worker safety and health in Canada would require all jurisdictions to eliminate tobacco smoke from all workplaces, including bars and restaurants. Ministers responsible for occupational health and safety in the federal, provincial and territorial governments have both the power and the responsibility to do so.

**It is recommended that the fourteen Ministers responsible for occupational health and safety in Canada make the necessary legislative and regulatory changes so as to protect all Canadian workers, including bar and restaurant workers, from second-hand smoke, and that such changes should take place in a coordinated fashion across the country, with full protection for all workers to be fully in place no later than the summer of 2004.**