

Physicians for a Smoke-Free Canada



The job is not yet done.

Falling smoking rates and concern for other health problems create new challenges for tobacco control.

Not long ago, the prospect of tobacco use no longer being the #1 cause of preventable disease was something we were looking forward to. Today, the desire of some government health planners to position tobacco as 'yesterday's issue' and to turn the bulk of their attention to obesity and physical exercise may be cause for concern.

Although the health consequences of tobacco use have been well known for over 40 years, government initiatives to reduce smoking during most of that time were ineffectual, half-hearted and sporadic. In recent years, however, a spurt of activity by all levels of government resulted in one of the most successful public health campaigns in Canadian history.

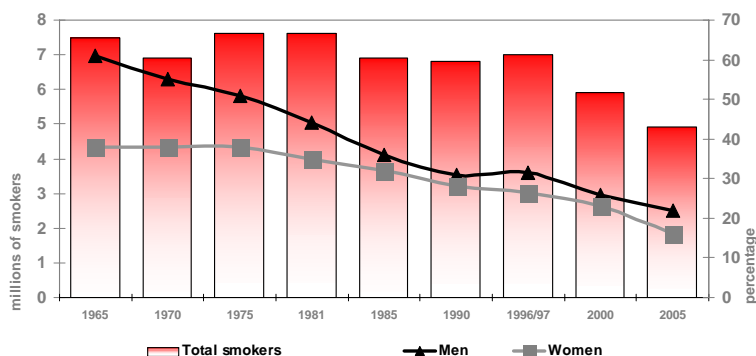
Today's challenge is to regain political attention at the federal level and to ensure there is a vigorous renewal of the federal strategy. Only by keeping the government's foot on the gas can we serve the needs of the 5 million Canadians and their families who have not yet benefited. To serve them, we need new measures, new money, new research, new recruits and new resolve.

In the past 5 years alone, Canada has seen [1]:

- Smoking rates among adults fall by **one-fifth** (from 25% of adults to 20%)
- Smoking rates among teenagers fall by **more than one-third** (from 28% to 18% of Canadians aged 15-19)
- The number of Canadians who smoke fall by **1 million** (from 6.1 million to 5.1 million Canadians)
- The number of Canadian children exposed to second hand smoke in their homes fall by **more than one-half** (from 1.14 million to 485,000 Canadian children under the age of 12)
- A **sixteen fold** increase in the number of Canadians who live in smoke-free communities (from 5% of to 80% of the population)
- Development of **an international treaty** to coordinate global efforts against tobacco

[1] sources: *Canadian Tobacco Use Monitoring Surveys, 1999–2005, PSC calculations of smoke-free coverage.*

In the 40 years since tobacco's harms became well known, the percentage of Canadians who smoke has fallen dramatically. The actual number of smokers, however, has fallen by only 1.5 million.



Heather, we miss you.

A few years ago, Heather Crowe would be the first to agree that her life was not extraordinary. She would have said that she was an ordinary woman, living in ordinary circumstances with an ordinary job and ordinary hopes for a comfortable life after retirement.

But when Heather learned that she was going to be forced into a retirement that would be neither comfortable nor long, she became a most extraordinary ordinary woman capable of doing the most extraordinary ordinary things. In the three and a half years of her dying she was able to do something few of us are able to do in all our years of living – to make a lifetime of difference.

For 40 years, Heather served food, poured drinks, and wiped tables, but for 39 of those years she did so in venues where, as she put it, “the air was blue with smoke.”

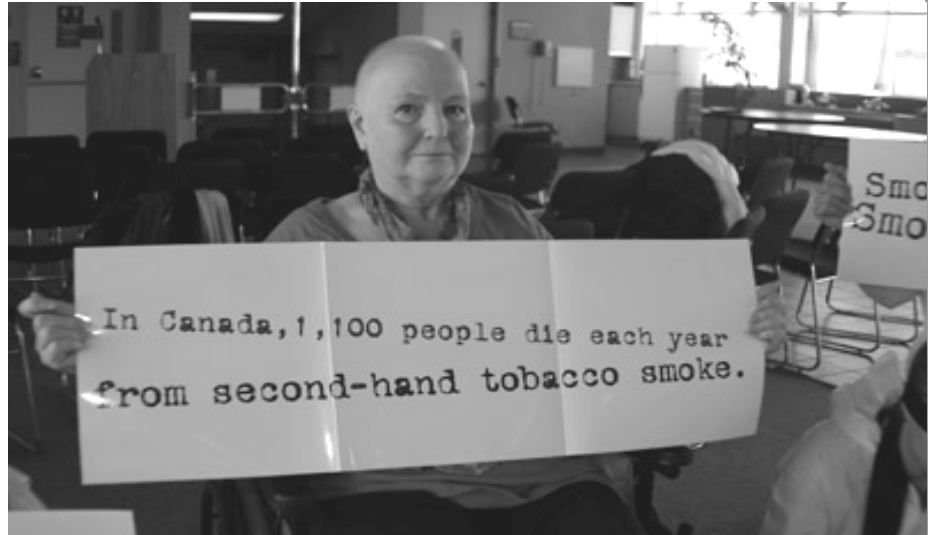
Heather said that waitresses were often ‘invisible workers.’ Invisible too was the damage that was being done to the cells of her lungs by the smoke-filled air she breathed.

By the time these cells developed into tumours and became visible to CAT scans and X-rays machines, Heather’s cancer could not be reversed.

Heather said that learning that she had lung cancer was “like having a mirror shatter into a million pieces. You see the shards on the floor,” she said, “but you can’t put them back together. It changes your life forever.”

Most extraordinarily, Heather decided to do more than just stare at the pieces on the floor. She decided that she might have been an invisible worker, but she would not be an invisible victim. She set about to present her case – against extraordinary odds – to the workers compensation system.

Later, suffering from chemo-caused nausea, she made another decision. No one else, she decided, should have to endure what she was going through. She set about to present **their** case – against extraordinary odds – to the political system.



Heather became a woman transformed. She stopped being a waitress, and became a woman with a mission. She became a voice for hospitality workers, for prison guards, for casino workers, for home-care workers, for all working Canadians who were left unprotected from exposure to second hand smoke. She became the ‘visible victim.’

Heather was unstoppable. She pushed herself on trips across Canada to communities large and small, to meetings friendly and hostile, to politicians supportive or discouraging. She searched out, and found, people who could help and then pushed us to be more ambitious.

She brought to her campaign a waitress’s sense of timing: she wasn’t satisfied with the idea that it could take years to bring laws into effect, and she didn’t see why we should be either.

She met, encouraged, cajoled, charmed and stared-down premiers and ministers. By putting a face to cancer from second hand smoke, she persuaded many of them to act on the knowledge they had.

Canadians responded to Heather in an extraordinary way. They realized that what had happened to her could have happened to anyone, but that not everyone would have responded as Heather did.

They were moved by Heather’s honesty, her selflessness, her determination – and her success.

Heather was a true Canadian hero.

Physicians for a Smoke-Free Canada was honoured to assist Heather in her campaign. PSC provided the research and legal support to Heather’s claim for workers compensation, and provided a headquarters for Heather’s campaign efforts.

With the financial support of our friends at colleagues at the Manitoba Medical Association, the Canadian Council for Tobacco Control and Health Canada, we have now produced a video documentary of Heather Crowe’s campaign.

Copies of the DVD “*Heather Crowe’s legacy: An Ordinary Canadian’s Extraordinary Gift*” (which includes resources for teachers) can be ordered from PSC at: 1-800-540-5418 or psc@smoke-free.ca



Setting low targets for tobacco control: Good for senior management, bad for public health.

Business buzzwords rule government procedures and 'MBO'—management by objectives—is now a public service catechism. The sad side-effect of this system is that it has allowed Health Canada to legitimately rob the tobacco control program of quite literally hundreds of millions of dollars.

Treasury Board Secretariat (which controls the purse-strings) requires departments to have well-defined objectives and to organize themselves to be able to measure progress and be judged on whether the funded objectives were achieved or not. At the same time, however, Deputy Ministers are required to reallocate resources from one program to another to fund "new requirements" or cover shortfalls.

In effect, Deputy Ministers are directed to rob Peter to pay Paul.

So what's a Deputy Minister to do? Clearly, his or her job is made easier if there are some rich Peters in the department that can bankroll some of the poor Pauls. To do this, a Deputy Minister needs a few well funded programs that have very achievable objectives. Once the objectives are close to being met, monies can then be 'reallocated' to other programs.

The federal Tobacco Control Programme illustrates the results of this structural imperative to underachieve.

In April 2001, in response to extensive lobbying from health organizations, the government announced a 5-year tobacco control program with a Health Canada budget of \$470 million. An additional \$110 million was subsequently awarded for 2006-2007.

The program was developed and goals were set **after** the money was announced. Originally, Health Canada proposed to target for reducing smoking prevalence to 15% by 2011. On hearing that, PSC advocated that — with over \$100 million to spend per year — the government could go even further. We urged a target of 10% prevalence by 2011.

Within a highly secretive process, the initial targets were weakened further, and the plan that was announced aimed only at reducing smoking to 20%. In that year, prevalence had already declined to 22% and it was foreseeable that virtually no additional effort would be required to reach that target.

This listless goal allowed senior management to anticipate years of easy money from Treasury Board. Over \$100 million would flood into the department every year, ostensibly for tobacco control. But as long as the department was on target to achieve its goal of 20% prevalence, the deputy minister could, with impunity, take money from Tobacco Control and spend it on other things. And that is

We estimate that over the past six years 40% of Health Canada's planned \$580 million in expenditure on tobacco control – \$231 million – has been spent on something other than reducing smoking.

exactly what happened.

In addition, the mass media budget of the tobacco program fell victim to the sponsorship scandal. Even though the anti-smoking ads were not implicated in any wrongdoing, the new Prime Minister (Paul Martin) included anti-smoking ads in his winding down of government advertising.

Virtually no federal anti-smoking ads have aired in over two years.

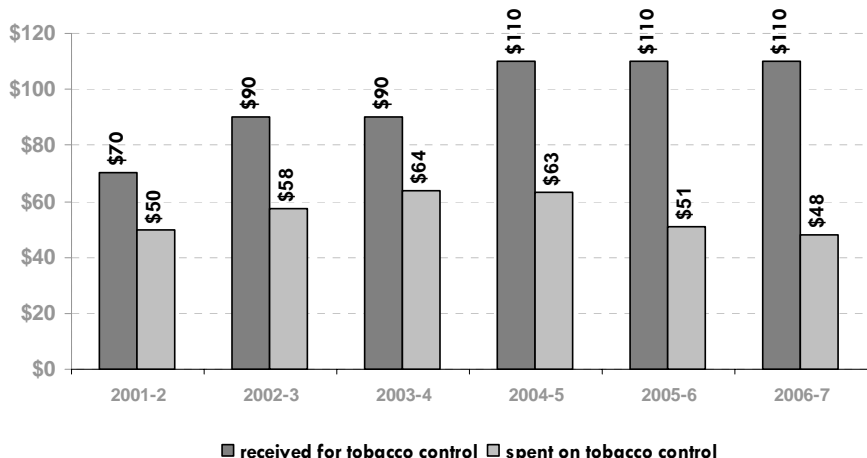
Monies originally allocated for programs to reduce smoking have been reallocated to "corporate support and communications," "overhead," "departmental reallocations," "departmental levies," and "federal government reallocations." They have also been used to provide \$13 million per year to the Canadian Environmental Protection Act.

As long as tobacco reduction targets remain unreasonably modest, more Canadians will continue to smoke than if meaningfully ambitious targets had been set and funding not reallocated.

The federal program is now up for renewal, and new targets are being set. We are now urging that Health Canada seek to reduce smoking to 10% or less by 2011, an ambitious but very achievable target.

Such a goal is the only way to overcome the structural incentives that encourage government managers to seek funding for important issues, set low goals and create slush funds for other projects.

Because Health Canada set low (and easily achieved) goals for its tobacco control program, it has been allowed to transfer money to other objectives



Voluntary agreement with tobacco companies

A disguised defeat

When Canada's Competition Bureau announced in early November that it had reached a voluntary agreement with Canada's tobacco companies to end the use of terms like 'light' and 'mild' on its packages, one could almost be forgiven for mistaking this for a step forward for public health. After all, had not health groups petitioned the agency to reach exactly this outcome?

PSC's research director, Neil Collishaw was the chair of the Minister of Health Advisory Council expert panel which advised the government in 2001 to end the use of these terms and all forms of marketing deception. This decision he characterized as "a public health loss disguised as a victory."

"This voluntary agreement is a ruse," he said. "It will not protect Canadians from tobacco industry deception. The companies have already colour coded or number-coded their packages. The agreement will allow them to continue to deceive their customers, all the while pretending that they have done something good for public health."

PSC is concerned that six years of regulatory foot-dragging may have contributed to this setback. In May 2001, then Health Minister Allan Rock asked the tobacco companies to voluntarily stop using deceptive descriptors like 'light' and 'mild' within 100 days (by September 2001). After the companies failed to comply, he gave notice of intent to pass regulations on December 1, 2001.

2000 days have passed since the 100-day deadline, and the companies have used this time to change their packaging, labeling and marketing. They have replaced the terms 'light' and 'mild' with other terms and signifiers.

"Experience in the European Union and Brazil has shown that removing the terms without also prohibiting other forms of misleading packaging is ineffective," said Neil Collishaw. Brazil banned the use of the terms in January 2002 and the European Union joined suit in September

2003. In both jurisdictions, the companies replaced the prohibited terms with colours.

PSC believes it is possible to end deceptive packaging, and recommends that the government now implement a comprehensive set of measures. We propose that each of the **deceptive practices** used by tobacco companies be ended:

- 1 The use of misleading brand descriptors that falsely convey differences in 'strength,' such as 'light,' 'ultra-light,' 'mild,' 'ultra-mild,' 'smooth,' etc. (This is contained in the voluntary agreements concluded with tobacco companies).
- 2 The use of misleading colours and packaging elements that falsely convey differences in strength, such as the use of lighter colours or more white space to falsely imply that these products are less harmful.
- 3 The display of numbers on packages that falsely convey differences in the amount of compounds inhaled between brands or sub-brands of cigarettes, and that fail to tell consumers how much they are inhaling.
- 4 The marketing and display of cigarettes in ways that falsely conveys distinctions between types of cigarettes.
- 5 The use of brand extensions (several types of one brand of cigarettes) that falsely convey distinctions between sub-brands.
- 6 The use of cigarette designs and related packaging that falsely convey a smoking experience of 'less hazardous' smoking.

It would be most effective to implement these measures, we suggest, in conjunction with plain or generic packaging.



The Competition Bureau decision will remove only descriptors 'light' and 'mild' - but will not stop the use of terms like 'silver', of numbers, of different shades of colouring, of different cigarette designs.

Permission to use these other tactics (as shown on the packages above) means that tobacco companies will continue to deceive smokers into thinking that some types of cigarettes are less harmful.

Smoking in federal jurisdiction: Chaos reigns while workers suffer

Finally governments are responding to the clear evidence of the dangers of second-hand smoke and are legislating to make workplaces smoke-free. A notable exception is the federal government, where incoherent policies on exposure to smoke have led to chaotic and contradictory actions.

HEALTH CANADA advises Canadians that second-hand smoke is a Class A carcinogen and that there is only one way to remove it from indoor air – “remove the source.”

THE CANADIAN CENTRE FOR OCCUPATIONAL HEALTH AND SAFETY, another federal government agency, has a website with information on second-hand smoke that is erroneous and six years out of date. It advises that second hand smoke “should not take away resources or distract attention from other hazards that may be present.”

CORRECTIONAL SERVICES OF CANADA is reported to routinely provide cash settlements to prisoners who complain about being exposed to smoke.

Smoking is banned (indoors and outdoors) in all provincial prisons (except Quebec). A recent policy change to limit smoking by inmates in all 54 federal prisons to outdoor recreational areas has proved ineffective because prisoners are still allowed to possess cigarettes, lighters and matches. As a result, they continue to smoke indoors, thus exposing prison guards and fellow inmates to second-hand smoke.

In the fall of 2005, Labour Canada Health and Safety Officer Chris Mattson ruled that Millhaven prison guard Howard Page was being unreasonably exposed to second-hand smoke at work, and that prison management should correct the problem immediately.

Unaccountably, the government chose to fight Mr. Page and his union through workplace tribunals and into court. The whole matter is now under appeal

by Mr. Page to the Federal Court of Canada, with the federal government resolutely continuing to defend the indefensible – the continuing presence of tobacco smoke in federal workplaces.

LABOUR CANADA administers the Non-Smokers' Health Act, which was landmark legislation when it was adopted in 1989. Now, 17 years later, it is badly out of date. It allows smoking rooms and smoking areas, against the advice from Health Canada and many other scientific and public health agencies that are all recommending that smoking be banned in all indoor workplaces.

Over the years, Labour Canada Ministers and officials have resisted all entreaties to update the legislation, even when those entreaties came from Heather Crowe. As a result, not a single one of the one million or so workers under federal jurisdiction for occupational health and safety has a legal guarantee that they will not be exposed to second-hand smoke at work, a guarantee now enjoyed by most other workers in Canada.

THE FRAMEWORK CONVENTION FOR TOBACCO CONTROL, an international convention ratified by Canada, requires countries to implement measures “providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.” “Protection” from second-hand smoke in 2006 means a total ban on smoking in all indoor workplaces. Until that happens, Canada's compliance with this treaty will be qualified, at best.

CREATING ORDER OUT OF CHAOS

Would it be difficult to upgrade federal law to be consistent with scientific recommendations and with treaty obligations? **The Senate** does not think so.

On June 7, 2006, that upper chamber unanimously adopted a motion proposed by Liberal Senator Mac Harb and seconded by Conservative Senator Dr. Wilbert Keon in which “...the Senate urges the Government of Canada to introduce legislation to ensure that all enclosed workplaces and public places under its jurisdiction are smoke-free.”

Physicians for a Smoke-Free Canada has helpfully drafted a Bill, which we are proposing to name *The Heather Crowe Act*. This proposed Bill would implement the Senate motion by repealing the Non-Smokers' Health Act and incorporating a total ban on smoking into the *Canada Labour Code*.

With a one-page law, the government could replace chaos with order and effectively protect all one million workers under federal jurisdiction for occupational health and safety from second-hand smoke.

C-XX

*First Session, Thirty-ninth Parliament,
55 Elizabeth II, 2006*

HOUSE OF COMMONS OF CANADA

Bill C-XXX

The Heather Crowe Act

An Act providing federally-regulated workers with protection from second hand smoke.

PSC is lobbying for changes to federal law to protect workers from second hand smoke.

TOBACCO MARKETING: NEW TACTICS SHOW NEED FOR LEGAL REFORM

The disappearance of cigarette-brand festivals, like the du Maurier Jazz festivals and Players' Racing, has created an impression that tobacco advertising has disappeared from Canada. A more accurate statement would be that it has been diverted to other forms of promotion.

PRINT ADVERTISING RETURNS

Tobacco advertising is legal in Canada, but most tobacco companies have refrained from advertising until their court challenge to the federal *Tobacco Act* is over. The Supreme Court is expected to hear arguments in February 2007 on whether all the sponsorship provisions of the act should be upheld over a lower court decision that some were excessive. Advertising at this time would undermine the companies' legal argument that the federal law is so strong that it is a de facto ban on tobacco advertising.

Ottawa Express, August, 2006.



Some tobacco companies, however, are not honouring the moratorium on advertising. Traditional tobacco ads have reappeared—not for cigarettes, but for smokeless tobacco.

Although the law which permits these advertisements was passed in 1997, Health Canada has yet to develop regulations to require health warnings. Canada is the only developed country to allow tobacco promotions without requiring health warnings.

NEEDED:

A total advertising ban on tobacco products in Canada.

The Supreme Court cannot approve such a law unless it is asked to — the current court case is about partial bans only.

LOWER CIGARETTE PRICES

The benefits of high cigarette prices in reducing smoking rates are well established.

Not long ago, virtually all cigarettes sold in Canada were sold at the same price. Any concerns about "price collusion" were brushed aside by the health benefit of having a market where taxes could be used to control the price of cigarettes.

Without price competition, tobacco companies were able to steadily increase their profit margins. (Imperial

Tobacco's profit per package increased from 32 cents in 1990 to \$1.07 in 2003). Just as a business theory would predict, this left them vulnerable to competition from otherwise uneconomic

up-start companies.

The competition from these new companies (especially GRE, which is located on an aboriginal reserve) has led each of the companies to reduce the price on some of their brands. For the first time in decades, the Canadian market has several price categories of cigarettes. Prices range from less than 10 cents per cigarette for illegal cigarettes to 45 cents for premium brands.

NEEDED:

**Better controls on smuggling .
A reliable way of monitoring smuggled cigarettes.**

Higher prices on all tobacco products.

POWERWALLS

Although Health Canada proposed restrictions on how many cigarettes could be displayed at retail as long ago as 1999, no federal action followed. Some of the provinces have stepped into the breach, and introduced bans on retail displays of cigarettes. Saskatchewan, Nunavut and Manitoba were the first to implement these laws. Ontario, Quebec and Prince Edward island followed (the measures in Quebec and Ontario don't take effect until May 31, 2008).

The "shower curtain" laws end the display of cigarettes behind cash registers, but they have only obscured, not yet removed, the power walls that dominate the space behind cash registers. PSC is working to develop better options for retail dispensing of cigarettes, looking at, for example, the potential to recruit retailers to assist in cessation referrals or other health promotion activities.

Smokers go to retail outlets upwards of 300 times per year to buy cigarettes—the opportunity to use each of those occasions as a 'teachable moment' should be explored.



SNAZZY NEW PACKAGING.

NEEDED:

Bans on display of cigarettes at retail in every province (either federal or provincial law)

Better control or management of cigarette dispensing to expand ability to promote quitting.

The U.S. Marlboro (right) and its new Canadian nameless equivalents (left)



Several of the major cigarette brands have been given new package designs over the past year. The companies are using brighter colours, larger logos and more detailed box shapes to try to pull their brand "away from the pack."

Advertising restrictions (and a voluntary withdrawal from advertising during the court battle over the federal law) has caused the industry to turn to the package as a major way to create and promote lifestyle imagery for their brands.

Canada becomes annexed to Marlboro country

One particularly noteworthy marketing initiative is the introduction of Marlboro-style cigarettes. In most parts of the world, Marlboro cigarettes are the best selling brand, but in Canada Philip Morris was hindered by not owning the rights to the Marlboro trademark (which was assigned to BAT in the early part of the 20th century).

In July 2006, Philip Morris' Canadian affiliate (Rothmans, Benson and Hedges) introduced a brand which clearly does not need the Marlboro name to pick up on the Marlboro imagery.

Canada's tobacco laws, like those in other countries, are based on the premise that cigarettes are sold with brand names, and that words are used to communicate ideas about cigarettes. The use of icons (like cow-boys, colours, angles, patterns of colour and white) are more difficult to regulate.

Over a decade has passed since Canada's parliament last considered whether cigarettes should be sold in 'plain' packages. Such packages would

have brand names and health warnings, but would not have brand imagery or colours. The new no-name Marlboro's are the direct opposite of this approach: they can rely only on brand imagery and colours to communicate. When a picture is worth a thousand words, the words become dispensable.

Colour-coded deception

Tobacco companies have prepared themselves for restrictions on the use of terms like 'light' and 'mild' by changing the colours of their packages.

Red has become the universal signifier of 'full strength,' Blue is used to connote 'light', and 'silver' is used to suggest 'extra-light.' The difference between these brands is the perception of less tar created by the dilution of smoke with air introduced through ventilation holes in the paper. Such cigarettes may give a different smoking experience, but they are not any safer (which is why governments world wide are moving to ban the use of terms like 'low-tar.'

FLAVOURED CHEAP CIGARS.

NEEDED:
Plain packaging

An end to the use of any and all marketing methods to suggest some cigarettes are safer. This means removing numbers from packages, and ending brand-extensions.

Health Canada regulations for cigars are much more lax than they are for cigarettes. There is no minimum size for cigar packages (cigarettes must be sold in packages with no fewer than 20 units). Cigars do not have to have warnings on individual units, nor do they have to have warnings on both sides of multiple unit packages.

The difference between cigars and cigarettes is established by the Excise Tax Act, which deems that cigars are tobacco products wrapped in tobacco leaf.

Small tobacco merchants have moved into this legal loop-hole and started selling cigarette-like cigars in Canada. A wide variety of these tobacco products is now available -- sold in kiddy pack sizes, in kiddy-friendly prices and kiddy-friendly flavours.

Cigarillos are sold for the price of candy bar and are available in— - count 'em - nine flavours (chocolate mint, cherry, rum, wild berry, cinnamon...). None of them has the same level of health warning messages as regular cigarettes.

The result is a market with cheaper and friendlier tobacco products.

The convenience store analysis "YCM" reported in June 2006 that "Cigars, less than one percent of tobacco sales a few years ago, are approaching 5%.



NEEDED:
Equally stringent measures for all tobacco products

2006

Tobacco control milestones

January

The **Alberta Smoke-Free Places Act** takes effect. It bans smoking in places where children are permitted to enter, but allows smoking in bars and lounges.

Ontario increases taxes on cigarettes by \$1.25 per carton.

February

New federal cabinet sworn into office. Tony Clement becomes Canada's fifth federal health minister in as many years

The first meeting of the Conference of Parties to the Framework Convention on Tobacco Control. Parties begin the hard work of deciding how the treaty will be implemented.

March

The B.C. Court of Appeal upholds the certification of the Knight class action suit (against Imperial Tobacco for the sale of 'light' cigarettes), but limits the claim to people who purchased light or mild cigarettes after May 8, 1997.

April

Madam Justice Marie Heneghan dismissed a request by a health coalition led by the **Non Smokers' Rights Association** to force the **Competition Bureau** to rule on its 2003 complaint that 'light' cigarettes were a deceptive trade practice.

May

Ottawa waitress and smoke-free workplace champion **Heather Crowe** dies of lung cancer caused by exposure to smoke at work.

World No Tobacco Day (May 31)
Ontario and **Quebec** go smoke-free. Smoking and smoking rooms are banned in all public places and workplaces.

June

Smoking is no longer permitted on the grounds of **Ottawa Hospital**.



July

Health Canada authorizes the sale of **nicotine lozenges** (without prescription) as a quitting aid and for 'temporary abstinence' to help smokers manager occasion when they cannot smoke.

Philip Morris subsidiary, RBH, launches a Marlboro look-alike brand in Canada. Unlike plain packaging (which allows brand names, but no imagery or trade marks), the new no-name Marlboros' show that brand names aren't necessary when imagery and trade marks are unencumbered.

September

B.C. Court of Appeals rules that foreign owned companies can be sued by British Columbia as part of its effort to recover money spent treating smoking-related illnesses.

Manitoba announces that it will change its laws to ensure that First Nations bars, restaurants and casinos will no longer be exempt from **Manitoba's** smoking ban.

Health Canada's 2004-2005 Youth Smoking Survey reports that 21% of youth in middle school (grades five through nine) have tried smoking. This is a 50% reduction since the last survey in 1994.

Marriott hotel chain goes smoke-free in Canada and U.S.

Quebec ban on smoking on school grounds comes into force.

Health Canada cuts \$10 million annual funding for **first nations** anti-smoking programme.

October

Winnipeg landlord to 10,000 tenants, Globe General Agencies, will no longer allow new tenants to smoke in their suites, on their patios or on their balconies. Existing tenants and their guests will continue to be allowed to smoke until they move out of their suites.

Imperial Tobacco releases its study on illegal cigarette sales. The report suggest that smuggling is limited to Ontario and Quebec, and that 16% of smokers in those provinces smoke cigarettes manufactured in or smuggled through native reserves.

November

The federal **Competition Bureau**

negotiates voluntary agreement with the three largest tobacco companies to settle complaints about deceptive packaging of cigarettes.

British Columbia's premier, Gordon Campbell, announces that indoor smoking will be banned in public places in B.C. by 2008.

December

The strongest smoke-free provincial measures come into effect. **Nova Scotia** bans smoking in all indoor and outdoor eating and drinking establishments, as well as all other workplaces.

Fifth anniversary of Health Canada's Notice of Intent to prohibit the misleading descriptors "light" and "mild". (Still no action...)

