

# Physicians *for a* Smoke-Free Canada



## A Tobacco Control Agenda for Canada's 40th Parliament

**F**or the third parliament in a row, Canada's legislative decisions will be made in the context of minority governments. We can't afford for this parliament to be as inattentive to tobacco as the last two were.

In the past few years there has been no significant new tobacco control policies or legislation enacted by the federal government. While Parliament has been coasting, progress against the tobacco epidemic has stalled. **Adult smoking prevalence has been hovering unchanged at 19% to 20% since 2004.** And tobacco keeps on killing about 37,000 Canadians per year.

### Achieving—again—a ban on tobacco advertising

Canada's federal parliament first banned tobacco advertising in 1988. The Supreme Court struck down that law in 1995 because it said that it had not been presented with sufficient evidence that a total ban was necessary. In the 18 years since the evidence was last presented to the court (in 1990), the world has changed—and bans on tobacco advertising are the new international norm, thanks to the Framework Convention on Tobacco Control. We will be encouraging parliamentarians to push for a more health-promoting resolution to this long-outstanding constitutional issue.

### Implementing 100% health warnings

Health Canada commissioned research that shows health warnings covering 100% of the front and back of cigarettes packages are the most effective. We hope Parliamentarians will agree. *Learn more about why these warnings are a good idea on page 5.*

### Banning candy-flavoured tobacco

Bubble gum flavoured tobacco is an outrageous idea *See who agrees on page 8).* Yet flavoured cigarillos and novelty

tobacco products have become unacceptably popular among Canada's youth. They generate curiosity, promote trial and make a child's first smoking experience more palatable. Campaigns are already under way to get Parliament to put a stop to this nonsense. *Read more about these campaigns on pages 2 and 3.*

### Strengthening global tobacco control

Through the Global Tobacco Control Forum, Health Canada is supporting international collaboration on tobacco control. But with more tobacco control workers than any other country in the world, Canada could be doing much, much more to help developing countries strengthen their tobacco control programs. *Read about a successful collaborative project to improve tobacco control in Ghana on page 7.*

### Controlling tobacco contraband, then and now...

On July 31, 2008, the two biggest tobacco companies in Canada entered into agreements with the federal and provincial governments to pay \$1.1 over the next fifteen years as supposed restitution for tobacco smuggling that the tobacco companies organized in the 1990s. Paul Finlayson, former IMASCO executive, called this "chump change." *Read more about what is rotten about these agreements on page 4.*

Little has been learned. Once again, Canada faces a tobacco contraband crisis. One in three cigarettes smoked in Canada is contraband. The government needs to enter into serious nation-to-nation discussions with Canada's First Nations that will address a series of linked problems, not just untaxed tobacco. Discussion need to also seriously address the tobacco epidemic raging in aboriginal populations and First Nations aspirations for sovereignty and autonomy. *Some imaginative and workable solutions are proposed on page 6.*

## Cigarillos and Novelty products

# Cancer in a candy wrapper

**T**obacco companies are always looking for new 'starters' to replace smokers who are quitting (or dying). In the tobacco business, the only new customer is a young customer because almost all smokers become addicted before they are old enough to vote.

The good news is that more and more restrictions on traditional tobacco advertising have made it harder for tobacco companies to convince kids to smoke – and fewer kids are smoking today than at any time since smoking rates in Canada were measured.

The bad news is that tobacco companies have found loopholes in Canada's tobacco laws and are using them to reach kids with dangerously attractive new products.

Corner stores across Canada are selling cheap candy-flavoured tobacco products packaged in colourful cases and sold in kiddy packs and 'try-me' sample sizes.

### Kid-friendly flavours

Strawberry, raspberry, chocolate mint, – even bubble gum and banana split!

A few years ago, the only tobacco products that were flavoured were menthol cigarettes and a few small cigars. In recent years, the number and quantity of flavoured tobacco products has soared.

Tobacco companies use these flavours because they have a great 'try-me' appeal. They generate curiosity, promote trial and make a child's first smoking experience more palatable and fun. ...

### Kid-friendly packages

The colourful tube or tin in your child's knap-sack might look like lipgloss, a marker or a tin of mints – but is in reality a tobacco product.

Flavoured cigarillos (a cigarillo is exactly like a cigarette except that the paper is made out of tobacco fibre) can be sold in packages with no warnings at all. And they can be sold in



**A petition of support for the Flavour Gone campaign is carried through downtown Winnipeg. July 24, 2008**

sample-size packages with only one cigar.

The combination of tobacco products wrapped in amusing packaging, spiked with enticing flavours and sold at a low price are trapping many kids into a lifelong and deadly tobacco addiction.

Virtually no adults smoke these novelty tobacco products – but lots of children do. Last year Health Canada reported that one-third of Canadian children have been convinced to try one. These are not all children who "would have smoked anyway" – one in ten high school age children have tried these novelty tobacco products but have never smoked even one cigarette.

### Better rules are needed

Tobacco companies are making a mockery of the tobacco laws meant to protect kids.

Every year the companies launch new brands, new packages, new marketing gimmicks. These new products are

launched with one shared purpose: to prevent smokers from quitting and to replace those who do quit with a new generation of tobacco addicts.

We need governments to move fast to clamp down on today's marketing of flavoured novelty products. We need a ban on all flavours.

But we also need governments to go beyond playing "catch-up" with these companies. We need a tobacco law that prevents companies from finding even more inventive ways to reach young people. We need a ban on all new tobacco products.

## It's time to change the rules!

## A campaign now in full swing:

### January 2008:

PSC receives Health Canada's first measurement of cigarillo use among youth and conducts its own analysis of survey data. PSC analysis reveals that the youth that use these products are not smoking cigarettes, and that Canada's smoking surveys are therefore underreporting youth smoking by 5 percentage points (CTUMS reports 15% of 15-19 year olds smoke, but when those who smoke cigarillos but not cigarettes are included the rate climbs to 20%).

**February— June 2008:** PSC contacts every member of parliament, providing them with a sample of flavoured tobacco products. One MP offers to introduce a private members' bill to ban these products. PSC prepares a draft law.

PSC proposes amendments to Bill C-52 (the *Consumer Product Safety Act*), to ban the introduction of flavoured or new tobacco products.

PSC explains the problems of flavoured tobacco products to senior staff in the Prime Ministers Office.

PSC drafts policy recommendations for Quebec and federal government.

**June, 2008:** NDP health critic, Judy Wasylycia-Leis, MP, introduces Bill C-556, which would ban blunts and tobacco flavourings.

**July—August, 2008:** PSC supports and funds the "Flavour Gone" campaign from Dryden, Ontario.

**Flavour Gone!** campaign events and materials included a web-site, face-book mobilizing, stickers, posters, and protests! The youth travelled to Winnipeg, Manitoba and provided a colourful and energetic demonstration of support for Private Member's Bill C-566 (introduced by Winnipeg MP, Judy Wasylycia-Leis).

**September, 2008:** Prime Minister Stephen Harper includes a ban on candy flavourings in his election promises.

**October-November 2008:** PSC prepares an information campaign to support legislation against tobacco flavourings.



**Cigarillos resemble other products marketed to young Canadians. Cigarillos, colour markers, lipstick and gum are shown above.**

## The loopholes:

Canadian law distinguishes between cigarettes and cigars, and imposes more stringent regulations on cigarettes. The difference between a cigarette and a cigar is paper thin – it is the paper with which the smoking tube is rolled. A cigarette is rolled in paper made from wood or other fibre, and a cigar is wrapped in tobacco leaves or paper made in whole or in part from tobacco.

### Regulations on cigarettes

- ▶ Cigarettes must have a health warning that covers no less than 50% of the package front and back.
- ▶ They cannot be sold in packages with fewer than 20 cigarettes
- ▶ They must have toxic constituent information on the side of the package (tar, nicotine, carbon monoxide, hydrogen cyanide, formaldehyde, benzene).
- ▶ Inside each package there must be a health information message, designed to help smokers quit.
- ▶ There are no bans on flavourings in cigarettes, but there are very few cigarettes that are flavoured with anything other than menthol.

### Regulations on cigars, cheroots and cigarillos

- ▶ These tobacco products, if they are sold in bundles or boxes, must have a health warning occupying from 13% to 27% of a principal display space, depending on the size of the package. The health warning does not have to be on both sides of the package.
- ▶ If they are sold in individual units, they do not have to have a health warning at all.
- ▶ There is no minimum pack size. Cigars, cigarillos and cheroots can be sold individually or in 'kiddy packs'
- ▶ They do not have to have any labels showing toxic constituents (like tar).
- ▶ They do not have to have any health information messages inside.
- ▶ There are no bans on flavourings.

### Regulations on blunts

- Blunts are rolling papers made with tobacco, primarily used to roll cannabis 'joints.' There are no requirements for health warning messages, minimum package sizes, health information messages or toxic constituent labels on these products.
- ▶ Blunts are widely available and are sold in candy, fruit and food flavours (like banana split).

# Legacy of the 1992-1994 smuggling crisis: A Settlement that leaves many issues unsettled

On July 31, 2008, the federal Minister of Revenue announced that federal and provincial/territorial governments had reached plea agreements with Canada's two largest tobacco companies, Imperial Tobacco Canada Ltd. (ITL) and Rothmans, Benson & Hedges (RBH) related to their involvement in tobacco smuggling in the late 1980s and early 1990s.

The comprehensive settlement agreements include an admission of guilt on the part of the companies, the levying of fines (\$300 million) under the Excise Act, additional settlement payments in excess of \$700 million) and an end to any future civil suits related to smuggling in this period. The companies also voluntarily agreed to some contraband measures (i.e. "know your customer" programs).

In total, the two companies will pay up to \$1.15 billion in fines and civil settlements to the federal government and 10 provinces, with the payments based on percentages agreed upon by all the governments. Ontario and Quebec will take the largest portions, because they were most impacted by the smuggling in the 1990s.

On the same day as the settlements disclosure, Philip Morris/Rothmans Benson & Hedges announced an offering for the purchase of the remaining publicly held shares of Rothmans Benson & Hedges by Philip Morris. On the day following, the federal government announced that the entirety of its receipts from the settlement for 2008 would be allocated to a buy-out for Ontario tobacco farmers.

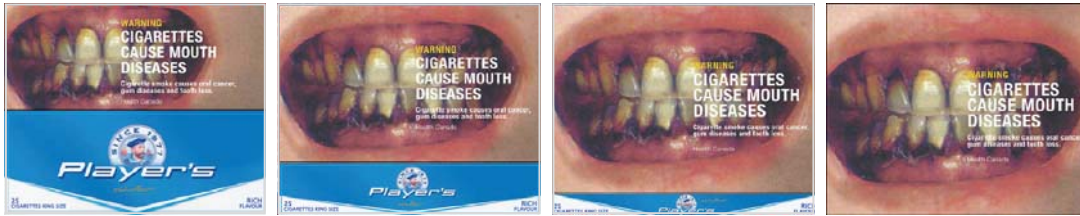
No health group applauded or has publicly supported this resolution of the contraband issue because:

- The individuals who led the wrongful actions were not punished.
- The companies were not held responsible for criminal actions (fraud, conspiracy, benefitting from the proceeds of crime).
- The amount of money was a fraction (about one-quarter) of the government revenues lost—and that's before interest was included.
- There was no acknowledgement of the costs that resulted from the government being deliberately forced into the position of reducing taxes.
- The companies were able to keep the increased profits that resulted from the raise in youth and young adult smoking during the 1990s, and there was no factoring of the health care costs that will be incurred by governments in the future as a result of increased smoking rates.
- The needs of victims, like the young people who would not otherwise have started smoking had taxes remained high—were not considered.
- The secrecy of the negotiations, and the agreement by government that all documents related to the settlement remain sealed.
- The absence of involvement of any health ministries in determining appropriate terms of a settlement, such as a ban on advertising or plain packaging.
- The linking of future payments to governments with future sales of tobacco.

## The other shoe: the case against JTI - Macdonald

The settlement with Imperial Tobacco and Rothmans, Benson & Hedges was much smaller than the amount being sought in a related court case. The federal and provincial governments are currently seeking \$10 billion from JTI-Macdonald (JTI-MC). In addition, JTI-Macdonald executives have been charged with Criminal Code violations. Trials are pending.





Smokers' reactions to warnings that covered 50%, 75%, 90% and 100% of the front and back of the package were compared.

## THE NEXT STEP BIG POLICY STEP? HEALTH CANADA LOOKS TO 100% HEALTH WARNING LABELS.

Canada has for over 20 years led the way in tobacco package reform. Now there are signs that another 'big step' is in the works.

Health Canada is researching the benefits of 100% health warning labels. (The current warnings take up 50% of the principal display space).

This year, two large studies were conducted for Health Canada. One of them looked at the difference that warning size made to smokers and young people when it was on a plain package. The other looked at the difference on packages of a few leading brands.

In both cases, the studies compared packages with 50%, 75%, 90% and 100% warning labels. (On the packages with 100% warning labels, the trade-mark appeared only on the side-panels). The studies concluded that going to 90% or 100% made an enormous difference to:

- ▶ Communicating health effects
- ▶ Discouraging smoking
- ▶ Preventing kids from starting to smoke
- ▶ Helping smokers quit
- ▶ Giving smokers an emotional connection with the warning
- ▶ Countering marketing by changing the product image and smokers' image.
- ▶ Making the warning relevant to smokers.

### Plain packaging by another name?

This research comes on the heels of renewed interest in and calls for plain packaging. By approaching plain packaging from the direction of increasing warning size (instead of just removing branding), this research complements the substantial evidence base accumulated by university-based researchers to justify removing all trade-marks and

other promotional branding from tobacco packages.

Not only do the brand names and trade-marks provide imagery that counters smokers' understanding and knowledge of health risks, variations in package colours continue to mislead smokers into thinking that some cigarettes are 'lighter' and therefore less harmful than others.

### The benefits of government transparency

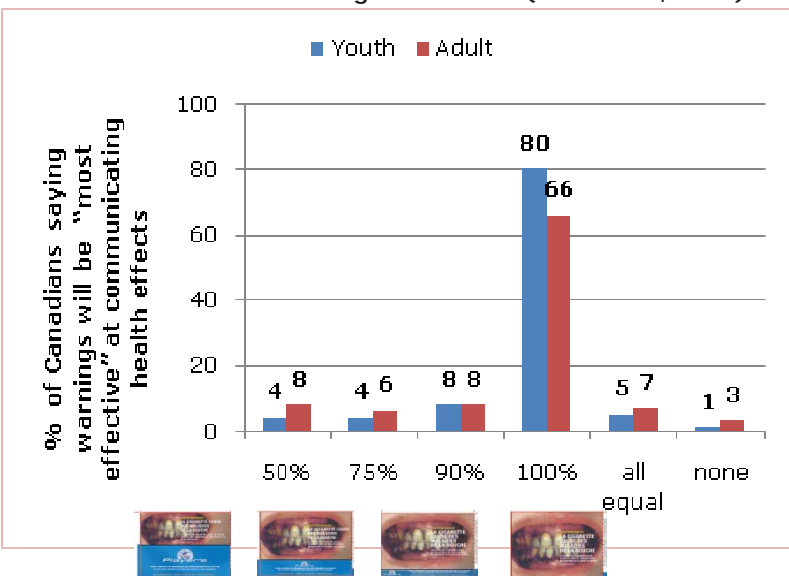
This new Health Canada research was released as a result of a new federal government policy of releasing all research with a public opinion component within 6 months of field work.

The studies, which can be found at the government access web-site: [www.porr-rrop.gc.ca](http://www.porr-rrop.gc.ca) are:

▶ Quantitative Study of Canadian Adult Smokers, youth smokers and vulnerable non-smokers. Effects of modified packaging through increasing the size of warnings on cigarette packages. (Createc, 2008) and

▶ Consumer Research on the Size of Health Warning Messages – Quantitative Study of Canadian adult smokers and youth (Enviro-nics)

By a wide margin, both youth (smokers are those deemed vulnerable to smoking) and smokers found 100% warnings most effective at communicating health risks (Enviro-nics, 2008).



*"If warnings would occupy the entire surface of the principal panel, the emotional impact would be quite remarkable"*  
(Createc, 2008)

## SMOKING IN FIRST NATIONS COMMUNITIES

# A PUBLIC HEALTH FAILURE

**S**moking prevalence among Canada's one-million First Nations peoples is among the highest in the world.

The 2002-2003 First Nations Regional Longitudinal Health Survey estimated that 59% of First Nations members smoked—that's three times the rate of the general Canadian population.

**Federal programs to address the problem have been disbanded—and not replaced.**

In April 2001, the federal government promised \$50 million for a First Nations and Inuit Tobacco Control Strategy (FNITCS), but the funding for this program was entirely cut in 2006. Our review of the strategy agreed with the government's decision that it was not good 'value-for-money', but an improved replacement strategy is long overdue.

Unless both aboriginal and federal governments change their approach to each other and to the issue, this situation is unlikely to get better.

**A strategy based on providing help to individuals cannot be relied on to change social norms and population behaviour.**

People living in First Nations communities rarely benefit from comprehensive policies and programs designed to reduce smoking (like high prices, smoke-free spaces, restrictions

on promotions at point of sale, etc). Too often, the only measures in place are those types of programs that have been proven ineffective despite decades of attempts in many nations.

It is not realistic to expect community health programming to overcome addiction and deeply embedded social norms that favour widespread tobacco abuse in the absence of any attempt to modify the social and legal environment in favour of greater tobacco control.

**Some First Nations are turning to tobacco trading as a way of exercising their sovereignty.**

As many as 13 billion cigarettes are now supplied to Canadians through Canadian reserves (This estimate that one-third of cigarettes smoked in Canada are illegal is provided by the Canadian Tobacco Manufacturers' Council). This trade is illegal under Canadian law, but is seen by some First Nations communities as a legitimate exercise of economic and political sovereignty by First Nations.

**First Nations' sovereignty can be enhanced by implementing the international tobacco control treaty.**

Instead of exercising sovereignty to selling cigarettes, First Nations could exercise sovereignty by ratifying and implementing a global public health

treaty. The Framework Convention on Tobacco Control provides a nation-to-nation agreement to cooperate in reducing tobacco use. Over 160 nations are parties to the convention. Although some adjustment would be required to support the participation of nations which are not eligible for WHO membership as states (such as Taiwan, Akwesasne, Kurdistan, Kosovo, Chechnya, etc) there is every reason to think the FCTC is robust enough to accommodate inclusion of these populations which are in high need of effective tobacco control.

**The problem is severe enough that new solutions must be explored.**

Realistically, accomplishing a new approach to tobacco control in aboriginal communities will take some time. But the rewards will be significant if increased autonomy in governance is used to strengthen public health.

**Already First Nations sovereignty has been applied to better tobacco laws.**

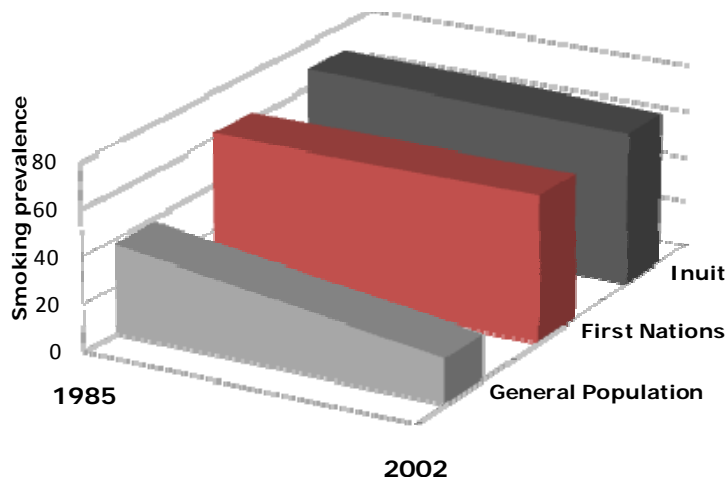
The potential for strengthened autonomy to result in tobacco control is already realized in areas like Nunavut and Northwest Territories, which were among the first jurisdictions to implement smoke-free laws and where tobacco use is falling at an accelerated rate (according to the Canadian Community Health Survey). Yukon First Nations have embraced the First Nations Goods and Services Tax. As a result, consumption taxes on tobacco and other goods are staying in communities and provide health and economic benefits to those communities.

**Federal leadership is needed.**

The Canadian government can play an active role in helping implement the FCTC in other First Nations by:

- Encouraging FCTC implementation on non-state nations, like aboriginal communities.
- Offering concrete support (technical and financial) in implementing comprehensive FCTC measures on reserves and other First Nations territories.
- Establishing a national coordinating mechanism for FCTC implementation on First Nations territories.

**Tobacco use among Inuit, First Nations and general Canadian Population, 1985-2002**



- Encouraging First Nations to adopt a full-price policy for on-reserve purchases of tobacco products, and establishing a mechanism to ensure all the money so collected would revert to the First Nation.
- Ending the practice of approving First Nation's by-laws that allow smoking in defiance of provincial statutes).
- Support efforts of First Nations leaders to require additional health warnings on tobacco packages that are pertinent to First Nations communities and in the languages of the First Nation.
- Encourage First Nations to undertake monitoring and surveillance of their comprehensive tobacco control programs.
- Facilitate communication between First Nations leaders who have successfully adopted comprehensive tobacco control programs in their communities (There are several such communities in British Columbia and the territories) and the leaders of other First Nations communities seeking to adopt such policies.
- Inviting aboriginal community leaders to join the Canadian delegation to the meetings of the Conference of the Parties of the Framework Convention on Tobacco Control.

---

#### Two years ago ....

*"I can assure you that we have not cancelled a strategy. We have held the funding. There's no program right now, but what we are doing is we are calling for, or casting about for, some ideas...."*

*The fact of the matter is that right now on-reserve tobacco use is at 59% of the population, and it's at 17%, I believe, or 19% in the general population. So something isn't working.*

*I don't believe in putting good money after bad. If we can change something, let's change it, and we will put the money in. I can assure you of that."*

**Hon. Tony Clement**  
*Appearing before the Standing Committee on Health, November 23, 2006*

## A (new) Global Tobacco Control Forum Strengthening tobacco control in Ghana.

In August, PSC staff members Cynthia Callard and Neil Collishaw joined forces with Nigerian colleague Akinbode Oluwafemi and travelled to Ghana where they worked together with Edith Wellington of the Ghana Health Service on a week of intensive activity designed to strengthen tobacco control in Ghana.

This tour followed a visit of Ghanaian tobacco control officials to Ottawa in 2006, hosted by Health Canada.

During the series of meetings in Ghana's capital city, Accra, PSC was able to provide information and technical assistance to government officials, politicians, health professional, non-governmental organizations and the media. In all over 100 Ghanaian government and community workers were engaged.

#### A new spirit of global cooperation.

These Ghana-Canada tobacco control exchanges are an example of the benefits of the cooperative approach required by the new global tobacco treaty, the Framework Convention on Tobacco Control (FCTC). The benefits were clear to see: the visit to Accra helped restore attention on tobacco control at a time that it appeared to have fallen off the political agenda and the knowledge shared in the earlier visit to Ottawa had been effectively translated into Ghanaian regulation.

#### Did it work?

Political change is a slow process. This is just as true in Ghana as it is in Canada. While the week's activities most certainly set wheels in motion in the direction of effective, comprehensive tobacco control in Ghana, the final outcome has not yet been realized.

#### Ghana well placed to prevent an epidemic.

But Ghanaian politicians and senior officials understand very clearly that Ghana stands on the cusp of making a very significant public health advance. In Ghana tobacco consumption is quite low, around 500 cigarettes per adult per year, just one-third of the current level in Canada, and tobacco use is not yet a major cause of disease and death in Ghana.

The best that Canada can do is contain a widespread tobacco epidemic that has already killed over a million Canadians and continues to kill them at the rate of 37,000 per year.

Ghana is well placed to do that which Canada did not do in the past and now will never be able to do. At least within its own borders, Ghana can **prevent** the tobacco epidemic from ever occurring.



**Akinbode Oluwafemi, Neil Collishaw and Edith Wellington pay a visit to the editors and reporter at the Ghana Times.**

*Work in Ghana is just one of about a dozen projects of the **Global Tobacco Control Forum**, a consortium of nine Canadian health agencies working together to support tobacco control in developing countries. The Forum's work is funded by the International Affairs Directorate and the Tobacco Control Program of Health Canada. Physicians for a Smoke-Free Canada is the administrative agency for the TCP funded portion of this project.*

# 2008

## The year in review

### January

**Alberta** workplaces and public places go smoke-free (Jan 1).

**Imperial Tobacco** extends its test-market for 'snus' (Swedish style oral tobacco) to Ottawa (marketing was launched in Edmonton in October 2007).

### February

Smoking is banned inside **Quebec prisons**.

Charges against **JTI-Macdonald** executives alleging their criminal involvement in smuggling during the 1990s are reinstated.

**Health Canada's** smoking survey measures for the first time use of little cigars. Results show as many youth are experimenting with these products as cigarettes.

### March

**Quebec** becomes the first (and, to date, only) province to respond to renewed tobacco ads by proposing regulations on their size and placement and requiring health warning messages. It also proposes to ban sales of single cigarillos.

**New Brunswick** becomes the second province to file a suit against tobacco companies for health care costs.

**Ontario** Landlord and Tenant Board rules that landlords have the right to maintain smoke-free apartments.

**Greater Vancouver Housing Corporation** designates some of its rental units as non-smoking.

**Manitoba's** Court of Appeal upholds the ban on smoking in public places.

**British Columbia** extends the ban on smoking to all public places, including bars and restaurants.

### April

**Nova Scotia** makes it illegal to smoke in a motor vehicle when a person younger than 19 is present (liable for a fine of \$394.50).

**Prince Edward Island** announces it will strengthen its smoke-free laws and will ban smoking in provincial parks.

**British Columbia's** Supreme Court says federal government should not be held responsible for any tobacco-related damages established as a result of B.C.'s lawsuit against industry and rejects industry's "third party claim."

**Quebec Court** upholds the right for landlords to make their units smoke-free and recognizes that second-hand smoke harms other tenants.

The **University of Toronto** announces it will divest millions of dollars worth of tobacco stocks, becoming first Canadian educational institution to do so.

### May

**Yukon** ban on smoking in public places and cars when children are present comes into effect.

"Power walls" come down in **Ontario** and **Quebec** as laws banning displays of cigarettes come into effect.

The **RCMP** announces a strategy to address contraband tobacco.

Nova Scotia NDP MLA, **Joan Massey**, introduces a bill to ban flavours in tobacco products.



**"As a parent, I was appalled to see tobacco being marketed in a way that is so enticing to children. Flavouring and packaging them like candy, gum or a fruit roll up. This just isn't right. This practice can't continue. We will not tolerate it. "**

**(Stephen Harper, Sept 17, 2008)**

### June

Indoor and outdoor smoking ban in **federal prisons** is fully phased in.

**Ontario** passes law to ban smoking in cars when children under 16 are present.

**Judy Wasylycia-Leis**, NDP MP for Winnipeg North, introduces a private members bill to clamp down on marketing of cigarillos and other novelty tobacco products.

### July

Cigarette display ban goes into effect in **Alberta**.

**Federal and provincial** governments reach a controversial plea-bargain with **Imperial Tobacco** and **Rothmans, Benson and Hedges**.

**Philip Morris** starts complete take over of Rothmans, Inc.

The City of **St. John's, Newfoundland**, adopts non-smoking rules for its non-profit housing.

### August

Federal government announces \$300 million buy-out for tobacco farmers, but provides few details.

Great Canadian Shoreline Cleanup reveals that cigarette butts are the most commonly found garbage item.

### September

**Canada Revenue Agency** announces new tax stamps and additional security features will come into effect in 2010.

Prime Minister **Stephen Harper** promise a ban on fruit and candy flavouring as well as more marketing restrictions on tobacco.

PSC asks **Auditor General** to investigate controversial settlement with tobacco companies after former industry official says that the RCMP should have laid charges.