



JAN 15 2020

MR. KEVIN O'REILLY
MLA, FRAME LAKE

Oral Question 22-19(1): Vaping Regulations

This letter is in follow up to the Oral Question you raised on December 11, 2019 regarding banning of all flavours in vapour products under Bill 41 *Tobacco and Vapour Products Control Act*, which received assent August 12, 2019.

I committed to clarifying whether or not flavoured vaping products will be banned in the Northwest Territories (NWT) once the Act is brought into force March 31, 2020. In accordance with section 6.2 of Bill 41:

No person shall sell a prescribed flavoured vapour product at retail or for subsequent sale at retail, or supply a prescribed flavoured vapour product for the purpose of sale at retail or subsequent sale at retail.

In order for this provision to have effect, regulations prescribing flavoured vapour products must be developed and also brought into force, otherwise no flavoured vapour products are banned.

This is the opposite legislative tool as is set up by section 6.1 of Bill 41, respecting flavoured tobacco products. Section 6.1 bans all flavoured tobacco products in the Act, and requires the development of regulations if we wish to set out exemptions for certain flavoured tobacco products. I have included section 6.1 below for your convenience.

- (1) Subject to subsection (2), no person shall sell a flavoured tobacco product at retail or for subsequent sale at retail, or supply a flavoured tobacco product for the purpose of sale at retail or subsequent sale at retail.
- (2) The Minister may, by regulation, exempt a flavoured tobacco product from subsection (1).

...2

Recognizing Bill 41 was reviewed by the 18th Legislative Assembly Standing Committee on Social Development, which submitted its public report to Committee of the Whole on its review of the Bill, I note the Committee's recommendation to strike a balance between discouraging new users of flavoured tobacco and vapour products, while recognizing that many NWT residents view tobacco as natural and connected to quality of life. For these reasons, motions were proposed to prohibit the sale of flavoured tobacco products, except those exempted by regulation, and to prohibit the sale of prescribed flavoured vaping products, adding under section 48(e.2) the power for the Minister of Health and Social Services to make regulations prescribing flavoured vapour products for the purposes of section 6.2. These motions were endorsed by Committee of the Whole.

As indicated in my oral response to the your question December 11, 2019, the regulations currently near completion are focused on banning smoking and vaping in public places including those areas where children and youth gather, and in motor vehicles when a minor is present, and on banning the promotion, advertising and display of tobacco and vaping products wherever children and youth have access. The Department's plan was that these initial regulations would not go so far as to prescribe banned flavoured vaping products in the NWT, noting however there has been a lot of development in the area as of late. We are now considering developing such regulations sooner than originally planned if necessary. We note that on December 19, 2019, the Government of Canada announced they are considering additional measures with respect to reducing nicotine concentration limits and additional flavour restrictions.

In moving forward we continue to work with our Federal / Provincial / Territorial (F/P/T) partners on a common approach. Our public health officials are working with the Council of Chief Medical Officers of Health to call on the federal government to ban flavoured vaping products outright. The Public Health Agency of Canada and Health Canada are providing national guidance to provinces and territories via an F/P/T working group. The working group, with involvement from NWT, established a national case definition and minimum data collection survey for any suspected cases. On September 9, 2019, the Office of the Chief Public Health Officer sent a Public Health Notice asking clinicians to report individuals with suspected vaping associated pulmonary illness or deaths. As of December 3, 2019, 13 cases of illnesses related to vaping had been reported to the Public Health Agency of Canada. As December 13, 2019 no cases have been reported in the NWT.

Before moving forward with Ministerial regulations prescribing flavoured vapour products to be banned, we would also want to engage with the public for public transparency and accountability purposes. Providing the public with information about vaping is critically important. In October 2019, the Department created a Frequently Asked Questions for parents. The Department of Education, Culture and Employment distributed this to schools across the NWT. Additional materials are being prepared for retailers and the public in advance of bringing the Act and regulations into force.

I trust the information provided above answers your questions in respect to Bill 41 Vaping Regulations.

Thank you.



Diane Thom
Minister of Health and Social Services

c Mr. Tim Mercer
Clerk of the Legislative Assembly

Mr. David Hastings
Legislative Coordinator
Department of Executive and Indigenous Affairs