

May 24, 2011

Sylwia Przewdziecki  
Clerk  
Standing Committee on Finance and Economic Affairs  
Room 1405, Whitney Block  
Queen's Park  
Toronto, ON M7A 1A2

**Re: Bill 186, An Act to amend the Tobacco Tax Act**

Dear Ms. Przewdziecki:

The Ontario Chamber of Commerce (OCC) is a federation of 160 local chambers of commerce and boards of trade in the Province of Ontario, representing 60,000 businesses of all sizes, in all economic sectors covering every area of the province. The OCC's mandate is to advocate strong and effective policies on issues that affect its membership throughout Ontario's business community.

The OCC acknowledges efforts to fight contraband tobacco such as the Smoke Free Act. Although well intentioned, the OCC believes that the proposed contraband package contained in Bill 186 can go further in fighting the sale of illegal tobacco.

Between the years 2001-2009, Health Canada reported total sales of legal tobacco in Ontario dropped by 45%. However, Health Canada only reported a 25% decline in smoking incidence. The difference is attributable to the dramatic spike in contraband volumes during that period. Similarly, in 2009 tobacco sales in Ontario dropped by 28% from the year 2005 but during the same period smoking incidence only dropped by one percentage point to 15%. The rate of contraband tobacco in Ontario is exceptionally high, with estimates anywhere from one-third to one-half of the market. That means in recent years as many as one out of every two cigarettes in the province has been illegal.

The Federal Excise Duty (FED) and Ontario's Provincial Tobacco Tax (PTT) were raised between the years 2001-2006. PTT went up from \$5.30 per carton to \$24.70 per carton, while FED was raised from \$8.76 to \$15.86 per carton. Indicative of the trend towards greater contraband tobacco use, PTT peaked at \$1.5 billion in revenue in 2005 (194% higher than 2001 numbers). Revenue was much lower in 2009 (nearly \$410 million lower than 2005 numbers). The aggregate revenue loss from the drop in taxable tobacco sales for years 2006-2010 can be estimated at approximately \$2.1 billion.

These numbers illustrate that fighting contraband tobacco makes fiscal sense for the provincial government. The government aims to eliminate the \$16 billion dollar deficit by 2015-2016. Reclaiming the vast lost tax revenue from illegal sales of tobacco will help pay down the deficit and possibly even balance the books earlier than projected.

The consequences don't stop at lost revenue; contraband tobacco also poses serious public safety issues and has increased under-age access to tobacco making the fight against it a priority.

Contraband tobacco funds over 175 criminal organizations known to the police enforcement agencies. This illegal activity further robs the provincial government of vital tax dollars that could be invested into health care or other provincial priorities.

Youth access to tobacco exists in part because the cost of contraband tobacco is more affordable and sellers of contraband tobacco do not ask, nor require valid identification from purchasers for proof of their age. For example, 200 legal cigarettes in a plastic bag sell for approximately \$62 dollars, whereas 200 contraband cigarettes in a plastic bag sell for approximately \$15 dollars. Sale of tobacco to youth directly contravenes Ontario's Smoke Free Act, which bans the sale and supply of tobacco products (including smokeless tobacco) to children and youth under the age of 19.

In 2010, The National Coalition Against Contraband Tobacco (NCACT) conducted a study and issued a report card in regards to contraband tobacco to the province. The focus was on initiatives such as public education, resources for law enforcement, tax revenue collection, and contraband tobacco prevention for youth.

The report highlighted that there is room for improvement in Ontario. The NCACT states, "The Government of Ontario has made the Smoke-Free Act the centerpiece of its tobacco control strategy. However, what is entirely absent from Ontario's tobacco strategy is a coordinated approach to dealing with contraband tobacco."<sup>1</sup>

The provincial government has introduced new legislation through Bill 186 to cut the supply of contraband tobacco. Key measures are tougher controls over raw leaf products, new fines for possession, and stronger seizure powers for police. With respect to tighter controls, the proposed bill includes increased oversight over the distribution of raw leaf tobacco, licenses for importers, and a requirement that fine-cut tobacco be marked.

The OCC applauds the Provincial Government's initiative against contraband tobacco, but feels it is insufficient. There are a few key measures not covered in the proposal that are a centerpiece of other contraband tobacco packages in Canada, and that would strengthen the province's fight against contraband tobacco.

As a comprehensive package for reform, the OCC urges the Ontario Government to look at Québec's efforts to fight contraband tobacco, such as the amendments to the Tobacco Act proposed in "Bill 59".

Québec - Bill 59 fights contraband tobacco through:

- Increasing fines
- Instituting new fiscal penalties
- Introducing new control measures for tobacco manufacturing equipment
- Creating the power to suspend drivers' permits for persons convicted under the Act

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<sup>1</sup> 2010 National Coalition Against Contraband tobacco: Ontario Report Card, p.3 - [http://www.stopcontrabandtobacco.ca/pdf/NCACT\\_Report\\_Card\\_on\\_Ontario\\_Government\\_action\\_on\\_Contraband.pdf](http://www.stopcontrabandtobacco.ca/pdf/NCACT_Report_Card_on_Ontario_Government_action_on_Contraband.pdf)

- Empowering local municipalities to institute penal proceedings
- Empowering both provincial and municipal police to enforce certain sections of the Act

In order to fight the sale and use of contraband tobacco the OCC recommends that the Ontario Government:

- 1) Broaden offenses that are subject to penalties in regards to selling to minors and to people who commit offences under the *Tobacco Tax Act*.
  - (1) Offenses include purchasing, possessing, storing, selling or delivering unmarked tobacco without the requisite licenses or authorization.
- 2) Strengthen licensing requirements to include non-tobacco materials used to make tobacco products.
  - (1) Cigarette paper
  - (2) Acetate tow
  - (3) Cigarette filters
  - (4) Cigarette tipping paper
- 3) Increase penalties and strengthen enforcement.
  - (1) Mandatory minimums for possession and sales
  - (2) Extension of powers of seizure to include anything used in manufacture, distribution or sale of contraband
  - (3) Mandatory suspension of drivers' permits upon conviction when a vehicle or boat is used to transport contraband
  - (4) Empower local municipalities to institute penal proceedings

Fighting contraband tobacco makes fiscal, legal and social sense. Through strong measures to toughen enforcement, tax revenue will increase expediting the province's fiscal recovery, funding will be cut to criminal organizations discouraging their operation, and youth will be protected from gaining access to any tobacco product.

Thank you for the opportunity to provide input on this important issue. If you have any questions or comments, you may direct your staff to contact Kelly Pritchard, Policy Analyst at (416)-482-5222, extension 246, or [kellypritchard@occ.on.ca](mailto:kellypritchard@occ.on.ca).

Yours sincerely,



Len Crispino  
President & CEO

Ccs: The Hon. Sophia Aggelonitis, Minister of Revenue  
The Hon. Deborah Matthews, Minister of Health and Long Term Care  
The Hon. Dalton McGuinty, Premier of Ontario  
Tim Hudak, PC Leader, Leader of the Official Opposition  
Lisa Macleod, MPP, PC Critic, Revenue and Government Accountability  
Christine Elliot, MPP, PC Critic, Health and Long-Term Care  
Andrea Horwath, NDP Leader  
Mr. Peter Tabuns, MPP, NDP Critic, Revenue and Finance  
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