



April 9, 2008

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Dear Public Health Stakeholders:

This letter is to inform you that British Columbia's new *Public Health Act* has been tabled and we would like to recognize the input provided by stakeholders that has added substantial value to development of the Act. For more information we invite you to go to the website at <http://www.health.gov.bc.ca/phact/>.

The current British Columbia *Health Act* is outdated and has been amended several times such that it is a patchwork of outdated clauses and does not cover important aspects of modern public health.

The new, comprehensive and flexible *Public Health Act* replaces the outdated legislation, supports improved health and wellness of British Columbians and assists to address current public health issues including new challenges in infectious disease control like SARS or pandemic influenza, environmental toxin exposures, prevention of chronic disease, injuries, and poisonings and bioterrorism threats.

Over the past decade, the provincial government has undertaken the task of creating public health legislation that is updated, comprehensive, and responsive to emerging needs. The development of the *Public Health Act* completes the modernization of six key public health statutes in British Columbia: the *Drinking Water Protection Act* (2001), the *Food Safety Act* (2002), the *Tobacco Control Act* (amended in 2007), the *Tobacco Damages and Health Care Cost Recovery Act* (2000) and the *Community Care and Assisted Living Act* (2004). Please refer to Appendix A for background information for each of these public health statutes.

Thank you to all who provided feedback and suggestions for the development of this important new piece of legislation. Your contributions were important to improving the final product and are truly appreciated.

If you have any questions, comments or suggestions about the *Public Health Act*, please let either of us know or contact Dr. Brian Emerson at brian.emerson@gov.bc.ca or (250) 952-1701.

Yours sincerely,

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Appendix A

Background Information on Recently Updated Provincial Public Health Related Statutes

Food Safety Act (2002)

The *Food Safety Act*, passed in 2002, modernized and consolidated the provincial legislation governing food safety. The intent of the *Food Safety Act* is to:

- Ensure a high standard of food safety, and to harmonize food safety standards and inspection mechanisms with other jurisdictions;
- Clarify the legislative mandate of the Ministry of Health respecting food safety (the previous legislation lacked clarity respecting Ministerial responsibility for food safety); and
- Enable the replacement of outdated, prescriptive regulations with outcome-based standards.

The *Food Safety Act* sets out broad food safety principles and enables the creation of sector-specific regulations to replace the variety of older statutes that currently govern food safety. The key features of the Food Safety Act include:

- An outcome-based regulatory system which establishes industry's responsibility to produce safe food, and government's responsibility to set food safety standards and to audit industry's compliance;
- Greater flexibility for ministers to order a recall of unsafe food, and for inspectors to stop or prohibit operations, to seize food or otherwise have it dealt with in a safe manner, and to inspect and monitor for food safety;
- Higher fines (to a maximum \$200,000, in comparison to a maximum \$2,000 under the former Meat Inspection Act) for offence convictions; and
- Flexibility for the BC Government to harmonize food safety standards and integrate inspection systems with other jurisdictions.

Under the *Food Safety Act*, licensing and specific regulatory requirements for individual food industry sectors are triggered when sector-specific regulations are enacted.

Drinking Water Protection Act (2001)

In a 1998 report on drinking water resources protection in BC, the Auditor General noted that BC had higher average rates of enteric (waterborne or food-borne) diseases than elsewhere in Canada. The report also highlighted the fact that a number of BC communities had well publicized water-related disease outbreaks including *Giardia* in Penticton in 1986, and *Cryptosporidium* outbreaks in Kelowna and Cranbrook in 1996¹.

Following the 1998 Auditor General's report, and the hemorrhagic *E.coli* outbreak in 2000 in Walkerton, Ontario, the BC Government asked the Office of the Provincial Health Officer (PHO) to write a report examining the full spectrum of drinking water issues from source to tap. The 2001 PHO Report outlined the steps necessary "to reduce waterborne disease at each component of the water system, from source protection, to water treatment, to maintenance of the pipe infrastructure and distribution system, to the consumer's tap."²

Following these reports, the *Drinking Water Protection Act* (DWPA) was passed in 2001. This Act provides authority over drinking water from source to tap, clear accountability for drinking water officers; and an improved regulatory framework by building on the strengths of existing public health programs.

¹ Auditor General of British Columbia. Protecting drinking-water sources. Victoria, BC: Auditor General of British Columbia, 1998.

² Office of the Provincial Health Officer. Drinking water quality in British Columbia: The public health perspective. Provincial Health Officer's annual report 2000. Victoria, BC: Office of the Provincial Health Officer, October 2001.

The *Drinking Water Protection Act* sets out certain requirements for drinking water operators to ensure the provision of safe drinking water to their customers. In summary, the Act:

- Requires the approval of water system construction proposals by Public Health Engineers;
- Requires that water system operators manage their systems in compliance with the Act through operating permits which may contain specific conditions that are set and approved by the Health Authority Drinking Water Officer;
- Requires minimum water treatment standards, monitoring/testing and specifies water quality standards;
- Requires water suppliers to have microbiological samples analyzed by a Provincial Health Officer approved laboratory;
- Requires public notification of water quality problems; and
- Requires that operators of water systems which serve more than 500 individuals become certified as operators through the Environmental Operators Certification Program.

Tobacco Control Act (2007- updated Tobacco Sales Act 1996)

The BC Ministry of Health has remained committed to reducing tobacco use and its consequent impact on the health care system and society. Since 2004, the ministry's efforts to reduce tobacco use have been guided by its tobacco control strategy, Targeting Our Efforts.³

Preventing BC children and youth from starting to use tobacco is one of the key goals of the tobacco control strategy. In support of this goal, the Government of BC announced, in March 2007, changes to tobacco control legislation to ban smoking in all indoor public and work places, including a ban on tobacco use in schools and on school grounds. Specifically the amendments to the *Tobacco Control Act* bans:

- Smoking in all indoor public and work spaces, to take effect in 2008;
- Tobacco use in schools and on school grounds as of September 2007;
- Smoking near most public and workplace doors, windows and air intakes to protect indoor air quality; and
- Tobacco sales in public hospital and health facilities; public universities and colleges; public athletic and recreational facilities; and provincial buildings.

The amendments will also allow for regulations to ban:

- The display of tobacco products in all places where tobacco is sold that are accessible to youth under 19, including products like lighters and caps with tobacco brands on them;
- Advertisements that hang from the ceiling, countertop displays, self-serve displays; and
- Outdoor tobacco signs.

Tobacco Damages Act and Health Care Cost Recovery Act (2000)

One of the overarching principles of the Ministry's Tobacco Control Strategy, Targeting Our Efforts, is to hold the tobacco industry accountable for the impacts its products have had and continue to have on the health of British Columbians and on health care costs in the province.

In 1998, British Columbia became the first jurisdiction in Canada and the Commonwealth to launch a lawsuit for the recovery of those tobacco-related health care costs that were incurred by the government of BC as a result of the past, wrongful conduct of the tobacco industry, including the deceptive promotion of their product.

In 2000, the Provincial Legislature passed the *Tobacco Damages and Health Care Costs Recovery Act*. The Act states that the Government has a direct and distinct action against a manufacturer to recover the cost of health care benefits caused, or contributed to, by a tobacco related wrong. The Act defined a "tobacco related wrong" as a tort committed in British Columbia by a manufacturer which causes or contributes to tobacco related disease.⁷

³ British Columbia Ministry of Health Services. Targeting our efforts: BC's tobacco control strategy. Victoria, BC: British Columbia Ministry of Health Services, 2004. Available online at http://www.tobaccofacts.org/pdf/bc_strategy.pdf (Accessed 2007 Nov 15).

In September 2005, the Supreme Court of Canada ruled that the procedures set out in the Act are fair and unanimously upheld the Province's right to sue the tobacco industry and concluded the *Tobacco Damages and Health Care Costs Recovery Act* is constitutional. The province's lawsuit asserted that the tobacco manufacturers:

- Marketed "light" cigarettes as safer when they knew they were not;
- Targeted children in their advertising and marketing;
- Conspired to suppress research on the risks of smoking;
- Conspired to invalidate the public warnings on the risks of smoking; and
- Are responsible for health care costs associated with smoking.⁴

In September 2006, the BC Court of Appeal concluded that the BC courts have jurisdiction over the foreign defendants and rejected the appeal; in April, 2007, the Supreme Court of Canada rejected the foreign defendants' application for leave to appeal.

Community Care and Assisted Living Act (2004)

The *Community Care and Assisted Living Act* (CCALA) was proclaimed in May 2004 and replaced the *Community Care Facility Act*. The CCALA focuses on protecting the health and safety of vulnerable and dependent persons cared for in licensed settings, including child day care, child/youth residential care and adult residential care.

The majority of residential facilities are long term care facilities for seniors and persons with disabilities, group homes for persons with developmental disabilities, and group homes for persons with mental health and addictions disorders. The CCALA strengthens protections for these groups by updating licensing requirements for community care facilities.

With the CCALA, British Columbia became the first province in Canada to regulate assisted living residences. Assisted living residences provide housing and a range of support services to adults who can live independently, but require regular help with daily activities, such as meal preparation, grooming, money management or housekeeping. The CCALA provides for the development of health and safety regulations for assisted living residences. The CCALA introduced mandatory registration of all residences, whether privately or publicly funded, created the Provincial Office of the Assisted Living Registrar (OALR), and established health and safety standards for registered operators.

The Registrar has worked with service providers, health authorities, community groups and government representatives to: establish a registration process; develop health and safety standards and policies; and develop a complaint resolution process.

The Registrar conducts a risk-based assessment of applications for registration and where health and safety risks warrant, conducts inspections of the residences and has authority to:

- Inspect residences if a resident's health or safety is at risk or an unregistered residence is being operated;
- Suspend or cancel a registration if a relevant Act or regulation is contravened;
- Impose fines on unregistered residences; and
- Delegate any of the above-noted powers.

The CCALA also makes provision for private hospitals and public extended care facilities, which are currently regulated under the *Hospital Act*, to become regulated

⁴ Tobacco Control [Internet]. Victoria, BC: British Columbia Ministry of Health. Legal action [revised 2007 Jul 31; cited 2007 Nov 15]. Available from <http://www.healthservices.gov.bc.ca/tobacco/litigation/>