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Monitoring and Evaluating Ontario's New E-Cigarette Policy Measures: Sale and Supply to Youth

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Table of Contents

Acknowledgements.....	iii
Table of Contents.....	iv
List of Tables.....	v
Introduction.....	1
Methods.....	2
Findings.....	3
Compliance.....	3
Compliance by Vendor Type.....	4
Convenience Stores vs Vape Shops.....	4
Test Shopping.....	5
Signage.....	7
Identifying Retailers.....	7
Communication and Clarity.....	8
Resources.....	8
Exploratory Interviews with Youth.....	9
Reasons for Vaping.....	10
Policy Awareness.....	10
Experiences with Purchasing E-Cigarettes.....	10
Alternate E-Cigarette Sources.....	11
Online Stores.....	11
Social Sources and Social Media.....	12
Cost and Perceived Health Effects.....	12
Summary.....	14
References.....	15

List of Tables

Table 1: Challenges to Enforcing the <i>ECA</i> Youth Access Stipulation as Identified by Online Survey Respondents.....	6
Table 2: Characteristics of Youth Participants (n=11)	9

Introduction

On November 7, 2014, the Ontario government announced amendments to the *Smoke Free Ontario Act* (SFOA). The regulatory amendments came into effect January 1, 2015. On May 28, 2015, the *Making Healthier Choices Act* (including legislative amendments to the SFOA and enactment of the *Electronic Cigarette Act*) received royal assent to protect youth from the dangers of commercial tobaccoⁱ and the potential harms of e-cigarettes.

For a description of Ontario's new tobacco and e-cigarette policy measures see OTRU's September 2016 newsletter.¹

In 2016/2017, the Ontario Tobacco Research Unit, in collaboration with key stakeholders, including public health units (PHUs) and non-governmental organizations (NGOs), assessed the implementation and impact of new tobacco and e-cigarette policy measures being implemented in Ontario.

In this report, we provide an overview of key findings from 2016/2017 monitoring and evaluation activities. We focus on implementation of the *Electronic Cigarette Act* (ECA), specifically implementation of the minimum age of sale and supply stipulation that came into effect on January 1, 2016.

Key Findings about implementation of the SFOA outdoor smoking regulations and the flavoured tobacco prohibition are described elsewhere.^{2,3}

ⁱ In this document, tobacco refers to commercial tobacco products (e.g. cigarettes, waterpipe, cigars). It does not mean Sacred Tobacco used for Indigenous cultural or spiritual purposes.

Sale and Supply of E-cigarettes

As of January 1, 2016, it is illegal to sell or supply e-cigarettes and component parts (e.g. battery, atomizer) to anyone under 19 years of age in Ontario.

Employers or proprietors of a place that sells e-cigarettes must post signs about the new rules.

Methods

Monitoring and evaluation activities began in April 2016 and aimed to understand compliance with and enforcement of new policy measures; facilitators and challenges to implementation; perceived policy impacts; and any unintended consequences or emerging issues resulting from the new measures. Activities that focused on the e-cigarette minimum age of sale and supply stipulation included:

- An online survey of 83 Tobacco Enforcement Officers (TEOs)
- An online survey of 35 Tobacco Enforcement/Public Health Managers
- 16 semi-structured, Key Informant interviews with TEOs (n=7), Managers (n=5), Vape Shop Owners (n=3) and an NGO representative (n=1)
- Exploratory interviews with youth (n=11)
- Analysis of the Tobacco Inspection System (TIS) data

Survey data were collected in November/December 2016 and interviews were conducted between October and December 2016.

Findings

Compliance

As documented in the Tobacco Inspection System (from the first half of 2016), 90% of the 1,026 tobacco vendors/e-cigarette retailers that were inspected did not sell an e-cigarette to the test shopper.ⁱⁱ

The majority of TEO (82%) and Manager (90%) survey respondents identified increased policy awareness among vendors as an enforcement success. Further, approximately 63% of TEO and 58% of Manager survey respondents noted that increased vendor compliance with the minimum age of purchase stipulation was an enforcement success.

Generally, Key Informants described good vendor compliance with the *ECA* stipulation that prohibits the sale and supply of e-cigarettes and component parts to young people under the age of 19.

Proactive education, including educational packages and in-person visits with stakeholders affected by *ECA* regulations was important for developing relationships between vendors and enforcement staff, and subsequently achieving higher compliance levels.

“I hired an officer, a temporary full-time to go out and do nothing but education for e-cigarette sales ... but I mean, we're heavy into the education for retailers. We find that being proactive that way, less non-compliance. The more info we give them, the less problems we have... we're right around 98% compliance, which for us is fabulous.” —Manager

In addition to proactive education, having a similar policy in place before *ECA* legislation facilitated compliance. As noted by some enforcement staff and by all vape shop owners, many vape shops already had a minimum age of purchase policy in place before January 1, 2016.

ⁱⁱ Interpret with caution as this data does not reflect all e-cigarette vendors in the province and is based on data from the first half of the 2016 calendar year.

“Well, definitely the 17/18 year olds that were asked for ID that couldn't prove they were 19+ they were turned away, but we started that when we opened the store in May of 2015. We actually put on the door we ID 19+ to purchase any products so we were already ahead of that legislation...we didn't want our business to become successful off children ...so we kind of looked at where vaping was and we tried to figure out where is it going to go and what is the mass market appeal and who does this product help the most.” —Vape Shop Owner

Compliance by Vendor Type

There was less than optimal compliance in three of the public health jurisdictions represented in the interviews. Due to capacity limitations, staff in one PHU combined their first round of *ECA* inspections with educational visits, noting many sales to minors. This participant felt that compliance would improve in the coming years as retailers grew more aware of the *ECA*. Key Informants from the other PHUs experienced compliance issues, in particular with convenience stores and pharmacies.

Convenience Stores vs Vape Shops

According to Key Informants, compliance in specialty shops or vape shops appeared to be stronger compared to convenience stores. Key Informants reported a relative lack of knowledge about e-cigarette and regulatory legislation in convenience stores. Many noted that convenience store vendors were sometimes unaware that e-cigarettes were being sold in the store and questioned the amount of organizational training and education vendors in convenience stores received about the product and legislation. Further, convenience stores sell many different (often more profitable) products, which might detract attention from e-cigarettes.

“When you get into the greater margin of people who are retailing these products, largely in convenience stores or areas where tobacco has traditionally been retailed, compliance starts to slip and I would suggest to you it's because...it's just that one product in a whole catalogue of things they have available...I would say that in many cases owners and particularly clerks have no idea what they're vending. They really don't even know what they are and so despite our best efforts to educate

them...they're clueless as to what they are and they will often ask us, 'Well, what is an electronic cigarette?' —Manager

On the other hand, vape shop staff members were considered more knowledgeable about vaping products and legislation because their business is generally entirely focused on vaping.

“Well as far as the knowledge of the products the vape shops are way ahead on that sort of thing.” —TEO

A Vape Shop Owner noted that staff in specialty shops have the in-depth knowledge and capacity to help customers use vaporizers to address their smoking, whereas this is absent in convenience stores. One Vape Shop Owner felt that the youth access stipulation was necessary to align age of purchase policies across convenience stores and vape shops.

Key Informants also noticed a trend whereby convenience stores were no longer selling e-cigarettes. A Manager felt that the products were being withdrawn from convenience stores (often first generation e-cigarettes) because they were no longer meeting the needs of the public. A Vape Shop Owner confirmed this perspective, noting that e-cigarettes were likely inconvenient to sell and not profitable for convenience stores.

“... I guess it wasn't profitable enough for them or it wasn't working for them so that just demonstrates the fact that a vape shop is actually important for people looking to use these products, cause there's some knowledge that people need to use them properly and you can't get that unless you're at a store where somebody's knowledgeable as well.” —Vape Shop Owner

Test Shopping

As reported by TEO and Manager survey respondents (Table 1), exposure to secondhand vapour during test shop visits was a primary challenge to enforcing the youth access stipulation.

Table 1: Challenges to Enforcing the ECA Youth Access Stipulation as Identified by Online Survey Respondents

Challenge	TEO Respondents (n=79)	Management Respondents (n=29)
Test shop exposure to second hand vapour	49%	45%
Lack of public awareness	46%	31%
Lack of vendor awareness	44%	38%
Other	22%	34%
Adequate staffing to proactively enforce	16%	17%
No challenges	16%	21%
Adequate staffing to address complaints	6%	10%

Key Informants also expressed concern about sending youth test shoppers and in some cases, enforcement officers, into specialty stores or vape shops because of the unknown risk of secondhand vapour exposure. A few Key Informants noted that for this reason, they send the enforcement officer in to do inspections instead, do not test-shop vape shops, or are waiting to test shop these stores until legislation that restricts vaping in public places is in place.

“...we have had some reports in other parts of the province where inspectors have come out of a shop when it's very heavily full of vapour that they feel a bit lightheaded, that they're having asthma like symptoms and so for us we made the determination that it was not worth sending youth test shoppers in to test shop. We still inspect. The adult TEOs still inspect but they wait until there isn't kind of active use going on at the time.” –Manager

Another reported challenge was unfamiliarity of test shoppers with the large amount of vaping products and terminology, which might alert the vendor that the young person is a test shopper. Key Informants and survey respondents highlighted the need for more training about e-cigarettes and component parts for test shoppers and enforcement officers.

Signage



Good compliance with posting *ECA* minimum age of purchase signage was also noted. Some Key Informants felt that the *ECA* signs were of poor quality, resulting in the need to replace signs, sometimes within a few weeks of posting in stores. Highlighting vendor concern about sign pollution and lack of space in which to display signs in

convenience stores, one Key Informant suggested dual SFOA/*ECA* minimum age of purchase signs for convenience stores.

Identifying Retailers

According to Key Informants, identifying stores that sold e-cigarettes and vaping products was labour intensive and an ongoing task. Some noted that having a municipal licensing structure in place (e.g. food or tobacco) facilitated identification of stores that sold e-cigarettes since they were already registered with the municipality. Enforcement staff often called or visited tobacco retailers on their vendor list to ask if they did or did not sell e-cigarettes. However, this proved challenging in some jurisdictions due to the lack of product knowledge among vendors or the cyclical nature in which they sold e-cigarettes.

“The other thing which we would have favoured was provision for a specialty shop very much similar to the provision for a tobacconist in the SFOA, where the onus lies with the operator to take out their registration with the Ministry...You would have a listing of these specialty stores and you know in the absence of any licencing regime, which we don't have for e-cigarettes, it's a crap shoot whether you find them or not. Now we've employed certain methods, we paid for a think tank to you know scour [Name of City] and find them, we'll look online, we'll take information from complainants but really it is not a fulsome list of all of the vendors that we have.” —Manager

Identifying vape shops was equally as labour intensive. Having a specialty shop provision for vape shops, similar to that of a tobacconist's, was proposed as a solution because tobacconists are required to register with the Ministry. Vape Shop Owners were generally favourable to having a tobacconist-like designation.

“I think a tobacconist is a good comparative because ours is a specialty product and you know cigars and pipe tobacco, those are kind of specialty tobacco products right so it's kind of a very good, you know there's a lot of similarities. The one big difference would obviously be being able to try the products in store but yeah if they said basically you're like a tobacconist but you can vape in your store I mean [Laugh] we wouldn't have anything to complain about really right? I think that most of the regulations pertaining to tobacconists are reasonable.” —Vape Shop Owner

Communication and Clarity

The need for more timely information to prepare the tobacco enforcement community for implementation was noted. Key Informants emphasized the need for clear communication about the status of *ECA* regulations not yet implemented. “Delayed” implementation resulted in confusion among local businesses, placing a financial strain on some health units where capacity and resources have been re-directed to fielding inquiries about implementation of *ECA* measures. Two Vape Shop Owners also described coming across confusion about vaping laws in various local businesses.

Resources

Key Informants described encountering capacity issues in 2015 and 2016, especially in light of legislative changes. Two Key Informants noted that tobacco control work had been affected locally because human resources were diverted to support the *ECA*. Realistic resources, beyond one-time funding, to support tobacco enforcement units were suggested in light of increased workloads due to current and future legislative changes.

Exploratory Interviews with Youth

In November and December 2016, we conducted interviews with 11 young people about their experiences with e-cigarettes and with the minimum age of purchase policy. Participants were recruited from a young parent resource centre (n=7), a panel of young people who had completed another study on e-cigarettes (n=3), and a youth volunteer group (n=1). The majority of participants identified as female and were from an urban community in Central West, Ontario (n=8). All had tried an e-cigarette in their lifetime, except for one. Three reported using an e-cigarette in the past 30 days. While nine reported trying cigarette smoking in their lifetime, six were current smokers.

Table 2: Characteristics of Youth Participants (n=11)

Characteristics	n
Age	
17-18	6
19	2
20-21	3
Gender Identity	
Female	9
Male	2
Ethnic or Cultural Identity	
Aboriginal	2
Asian	2
Black	1
White	7
Latin American	1
Employment Status	
Full-time paid	1
Part-time paid	2
Student	8
Geographic Location	
Central West	9
Central East	1
Eastern	1



Reasons for Vaping

Participants highlighted three main reasons for vaping. This included novelty of e-cigarettes, that it was “different” and the “new thing to do” within their friendship circles. Some noted that it looked fun and others explained that it seemed exciting. Another reason included the ability to do ‘tricks’ or compete with others to see who “who could blow the biggest cloud”.

Some described vaping as a smoking alternative, with one participant describing vaping in the context of a friend’s attempt to quit smoking. One participant noted that while she still smoked cigarettes during the days, vaping allowed her to stay indoors at night while she was pregnant.

Participants also felt that flavours attracted participants and their friends to vaping. Finally, some framed vaping as a way to belong, noting that people vaped to be trendy, look good or cool, to fit in and/or be part of a community (“Vape Nation”).

“I've seen it online before and it's kind of what sparked my interest was just guys like blowing O's out of the smoke or doing like a tornado...it looked cool at the time so I was like, ‘Oh, I kind of just want to see if I can do that or learn some of that just for fun when I'm bored’....” —Male, Central West

Policy Awareness

About half of the interview participants were aware that one had to be 19 to purchase e-cigarettes. One participant said they learned about the age restriction from his friend who volunteered for a school health group and another found out about the law via signage in a convenience store. Others were not sure how they had learned about the age restriction.

Experiences with Purchasing E-Cigarettes

Four participants noted that it was now harder to purchase vapes or e-cigarettes from retail environments compared to before January 1, 2016. One young man, a university student, explained that reduced accessibility combined with the availability of alternative substances (cigarettes, alcohol and marijuana) were reasons why he no longer vaped regularly. Similarly,

two young women from the Central West region noted that it has been harder to purchase since January 1, however did not consider this an issue because “people smoke cigarettes more”.

“Before January it was exciting and fun to vape. It was easy to buy them from both vape shops and convenience stores. Basically two months after there were a lot of warnings issued. We stopped having access to it. They asked for our ID and told us that they had gotten busted and they can't sell to minors anymore. They gave a good a reason for not selling to us....I didn't use them as much after. There were other substances I could use, like marijuana and cigarettes, alcohol. These were more of a thing when I was in high school.” —Male, East

The remaining participants noted no changes nor did they anticipate changes in their own or young people's ability to purchase e-cigarettes. This was mostly because there would always be some stores willing to sell to minors. Further, participants felt that vendors would be less likely to ask for ID if the customer looked older, had a vape already in hand when in the store, or had a child with them.

“Yeah and I find you can easily get them too cause...I'm still not old enough for the e-cigarettes but gas stations still sell them. They won't ID for them, so like there are some gas stations that do have to just cause they consider it, but some don't.” —Female, Central West

Alternate E-Cigarette Sources

Online Stores

Two participants, both university students, noted that their friends had increasingly relied on online stores to purchase e-cigarettes. One of these participants explained that while her friends still obtained e-cigarettes from older friends and from vape shops that did not ask for ID, they preferred online stores because of the more advanced vaporizers they offered. She also noted that her friends mostly went to vape shops to purchase e-juice. On the other hand, four females from Central West noted that young people in their community did not purchase e-cigarettes from online stores because they didn't know these stores existed or because it's more convenient to walk into a store compared to ordering online.

“...so a lot of my friends buy their stuff still in the vape stores either they don't card or they get other people who are over 19 to get the stuff for them...or they buy it online....I think cause they buy really weird, intense stuff online, which isn't available in the vape stores...I'm not too good with like the terminology but just like it's higher voltage, I think it's higher voltage and stronger....I think there's more reliance online to buy like the actual, the vapourizer itself, but buying juice I think they still get it like in the vape stores.” —Female, Central East

Social Sources and Social Media

Most interview participants felt that even if access to commercial sources was limited, it would still be possible to access e-cigarettes from an older friend or sibling or to purchase a used, discounted device from another young person. Two participants described how social media facilitated obtaining e-cigarettes and vaporizers via these sources.

“I can get them, like my older brother got me one”. —Female, Central West

“It's too easy now for everything with social media, with the Internet, with phones like people can just text someone that they know say or a brother or sister and say hey, go get this for me right so it's just so easy now in our society.” —Male, Central West

“Like they bought them and now they're trying to like [sell them], cause I always like scroll down my Snap Chat and someone is like selling either like a vape or a sheesha, hookah thing.” —Female, Central West

Cost and Perceived Health Effects

Participants felt that cost was the main factor that would prevent young people from vaping. Most thought vaping was expensive (“It's so expensive. The coils are so expensive”) and explained that this was the main reason for why they no longer vaped. Three participants spoke about the financial cost of vaping relative to cigarette smoking. Two young women felt that it would be cheaper to smoke cigarettes and a young man felt that while smoking and vaping were both expensive, the immediate high cost of vaping was a deterrent to use.

Other reasons for not vaping included not liking it/having no value, and health effects. Overall,

participants were unsure about what was in vapour and if there were any negative or positive health effects to vaping. A few participants noted that knowledge about any negative health effects might prevent young people from starting to vape. According to one participant, vaping had negatively affected his voice, which was a main reason for why he quit. Two young women felt that even if vapour contained harmful chemicals, it wouldn't stop people from vaping because most people smoked cigarettes anyways, which contain more harmful chemicals. Three young women, two of which described experiencing illnesses since moving to their community, explained that vaping was relatively healthier than breathing the polluted air in their community.

Summary

Monitoring and evaluation activities suggest that compliance with the *ECA* sale and supply to youth stipulation is good. Perceived implementation successes included increased vendor awareness and improved vendor compliance over time. Factors that facilitated compliance included proactive education and having a similar minimum age of purchase policy in place before the *ECA* stipulation was implemented.

Key Informant interviews highlighted lower compliance in convenience stores compared to specialty vape shops, which would suggest the need for continued monitoring of compliance by vendor type. Other challenges encountered by enforcement units included test shoppers' exposure to secondhand vapour in vape shops and difficulty obtaining a complete list of stores that sell e-cigarettes locally. Evaluation participants noted the need for more education and training for enforcement staff and test shoppers around e-cigarettes as well as clarity and timely communication about the status of *ECA* regulations not yet implemented. The need for adequate resources to support enforcement units in light of legislative changes was also noted by evaluation participants.

Some youth interview participants experienced difficulty purchasing e-cigarettes after implementation of the *ECA* youth access stipulation, however, the majority did not experience, nor did they anticipate, changes in their own or their friend's ability to purchase e-cigarettes from stores. These participants felt that e-cigarettes would still be accessible through vendors that sell to minors and through other sources, such as online stores, older friends or family members and social media. Findings suggest the need for more research on how young people access e-cigarettes and how this might undermine policies designed to restrict youth access.

References

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