

BILL C-32

An Act to amend the Tobacco Act

**A case of public fraud, government negligence and willful malice:
Why the Senate should not sanction Bill C-32**

Testimony presented to:

Standing Committee on Social Affairs, Science and Technology
Senate of Canada

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I would like to start today by thanking the Senate Committee for allowing us the opportunity to present both evidence and testimony in support of our contention that Bill C-32 is at best a public fraud and at worst a betrayal of Health Canada's mandate in tobacco control.

In terms of adding credibility to our testimony, let me begin by introducing both the company and myself. Casa Cubana a Montreal-based importer of quality cigar products and a leader in the distribution of flavoured little cigars in our country. Established in 1998, the company's reach extends throughout Canada with a sales force servicing approximately 10,000+ direct accounts – to include wholesalers, retail chains, independent retailers, gas bars, grocery stores and the duty-free channel.

In terms of myself, I am a longstanding and easily verifiable tobacco control professional. Over the last 18 years now, I have committed myself to the development of sound public policies on tobacco - through senior postings within tobacco control advocacy groups, the national health community, Health Canada (Tobacco Control Programme) and every level of the private sector.

I have worked as a policy analyst with the Non-Smokers' Rights Association of Canada (1991 – 1995); as a Data Specialist and Public Affairs Coordinator with the Canadian Council on Smoking and Health (1995 -1997); as Director of the National Clearinghouse on Tobacco and Health (1997 - 1998); Executive Director of the Canadian Council for Tobacco Control (1998 – 1999) and Evaluator and Policy Analyst with the Tobacco Control Programme at Health Canada (1999 – 2001).

Now to the issue at hand.

Why are we here? And what is Bill C-32 all about?

We are here today as a result of an orchestrated campaign of shock, fear and hate - waged over the better part of two years - by self-interested anti-tobacco groups, rogue politicians and well-intended but misguided and manipulated health agencies and youth groups in Canada. The reason they've needed to shock governments into action is simply because on the actual facts themselves, Bill C-32 finds no reason, purpose or merit.

Bill C-32 is completely leveraged on the basis that government interest and priority is focused on banning tobacco products which appeal to youth. Void of any actual research or evidence linking the use of flavours in tobacco products on children's decision to start or continue smoking tobacco, the government has rested its arguments on the sole fact that their research shows that kids are getting access to these products. If that is the criteria by which C-32 finds measure and rationale then the focus of the Bill is ill-conceived and indefensible.

If the fact that 6% of minors are finding interest and illegal access to flavoured little cigars/cigarillos is enough to label these products as “appealing” to kids and warrant their prohibition from the legal marketplace - then the government would necessarily have to concede that non-flavoured, traditional cigarettes are “really appealing” to kids, since 10% of minors are finding interest and illegal access to those products. That being the case, how can the federal government or Health Canada justify banning the one tobacco product that fewer kids are actually consuming the least?

Bill C-32 is not about protecting kids from tobacco or smoking. It’s about Health Canada reaching beyond its mandate to essentially force lifestyle decisions on legal-age Canadians.

Bill C-32 is about banning an unquestionably, legitimate and legal-age driven market product – and in the process putting hundreds if not thousands of people out of work; destroying hundreds of legitimate Canadian businesses; throwing away hundreds of millions of dollars in current, legitimate government tax revenues; further fueling a thriving black market economy involved in drugs and weapons trafficking across our country; and in the process providing greater access to kids to much more, much cheaper and completely uncontrolled flavoured tobacco products. **(See annex 1 documents).**

Bill C-32 will come to hurt, not help Canadians...and all because other people are breaking the law and furnishing some of these products to kids.

Bill C-32 is not health legislation, it is hate legislation. And the Senate now must decide to what extent some people’s hate of the industry, of these products and of legal age Canadians who choose to consume these – should be allowed to undermine honesty, integrity and accountability in our government.

The truth about these products is quite simple:

- Flavoured tobacco products (cigars and cigarillos) represent less than 0.5% of all tobacco products consumed in Canada every year.
- The vast majority of Canadians who consume these products are of legal age to do so. A legal age mandated into law by every government in Canada. Health Canada knows this and has conceded this point. **(See annex 2 documents).** According to the federal government's own survey on little cigars /cigarillos (plain or flavoured):
 - 92.1% of Canadians who choose to consume little cigars / cigarillos (plain or flavoured) - are of legal age to do so.

- 82.3% of little cigars / cigarillos smokers are over the age of 20.
- 58.3% of smokers are over the age of 25.
- Among Canadians under the age of 19, 2008 actually witnessed a significant decline in smokers of little cigars/ cigarillos (plain or flavoured). Compared to 2007, there were actually 32,100 fewer little cigar / cigarillo smokers in this age group in 2008. This compares, interestingly enough, to an additional 8,731 new (non-flavoured) cigarette smokers that same year.
- While kids are getting some illegal access to these flavoured products, the government's own research clearly shows that the kids are finding greater interest and illegal access to non-flavoured tobacco products, alcohol, gambling and marijuana products. Every health agency in this country knows this. **(See annex 3 documents)**
- The flavours found in these products are the exact same flavours found in a much greater quantity and wider variety of alcohol products approved for sale everyday in this country – by every Canadian government. **(See annex 4 documents)**
- There is no research which supports in the least a minimum packaging requirement for these products or the banning of any particular flavour, let alone all of them. And Health Canada knows this. To this point and perhaps most telling is the fact that the federal governments / Health Canada's own longstanding, leading research expert in tobacco control is nowhere to be found on this file. How is it that Dr. Murray Kaiserman, Director of Research, Surveillance and Evaluation with the Tobacco Control Programme was never invited by the department to testify before either the House of Commons or Senate Committee on C-32?

In another very interesting twist, Health Canada and anti-tobacco groups have long ago conceded that “banning” tobacco products in no way impacts youth uptake or consumption of tobacco products. Yet here they are now, trying to convince everyone that banning these products will address minors' access issues. **(See annex 5 documents)**

Today we are asking the Senate to do what everyone else as thus far failed to do...be fair, be honest and demand and seriously consider all of the facts before passing judgment.

We are asking you to send a very strong message to Health Canada, extremist groups and rogue politicians that the Senate will never sanction weak, arbitrary, ill-conceived and dangerous legislation on any issue.

- ✓ **In the absence** of any sound, solid research and policy foundation justifying this Bill (See annex 6 documents);
- ✓ **In the absence** of any meaningful consultation with the thousands of legitimate private sector stakeholders whose lives and livelihoods will be directly and negatively impacted by this Bill (See annex 6 documents);
- ✓ **In the absence** of any government commitment to any specifically stated and measurable health objective;
- ✓ **In the absence** of these very basic fundamentals to good governance in our country – we are asking you to vote down C-32.

I thank you for your time and leave you to your deliberation.