



# Physicians *for a* Smoke-Free Canada

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Hon. Ginette Petitpas Taylor  
Minister of Health  
Health Canada  
K1A 0K9

Hon. Bill Morneau  
Minister of Finance  
Finance Canada  
K1A 0G5

## **Re: Budgetary measures urgently needed to mitigate problems with *the Tobacco and Vaping Products Act*.**

Dear Ministers:

The purpose of this letter is to draw to your attention the urgent need for the 2019 budget to contain measures to address the negative consequences of the coming into force of Bill S-5 and the new *Tobacco and Vaping Products Act*.

This law was in place for less than half a year before the problems of massive advertising and dramatic increases in youth vaping were evident.

This public health crisis is one triggered by the decision to legalize the vaping market without putting measures in place to curb the excesses of nicotine marketers. It is a crisis made worse by the absence of robust survey evidence to guide remedial action, as the resources were not made available for Health Canada to survey smoking and vaping behaviour in the year following legalization. (We note that for cannabis, a new survey was put in place before legalization and results are provided on a quarterly basis).

We are heartened by the Notice of Intent issued on February 7<sup>th</sup>, and the plan to regulate some advertising practices of purveyors of these addictive products. This approach, however, is deeply flawed.

Even if the measures proposed in this change were sufficient, the time required to develop regulations will put the health of many hundreds of thousands of young Canadians at risk. We are informed by government official that the current requirements for regulatory impact assessment, cost-benefit analysis, gender-based analysis and other requirements will result in a minimum time frame of 30 to 48 months until new regulations are in force.

The budget is an opportunity to mitigate the damage caused by the drafting errors in the *Tobacco and Vaping Products Act*. It is also an opportunity to address some of the knowledge gaps that led to the decision to give nicotine marketers wide latitude in their commercial practices.

This government's decision to apply a harm reduction approach to tobacco that relied on a liberalized market for nicotine was taken without a strong evidence base. The experience over the past few months suggests that some of the assumptions underlying this decision were misguided and that more resources are required to support science-based policy decisions on vaping.

It has also become apparent that the department is not adequately resourced to have sufficient compliance and enforcement activities in place. Nicotine companies were able to run lifestyle advertisements on television for more than 2 months last year. Although the new law bans 'lifestyle' advertising (a term given clear interpretive meaning by Supreme Court), we have observed no apparent capacity in the department to enforce this restriction.

For these reasons, we ask that the 2019 budget include the following measures:

- Include amendments to the *Tobacco and Vaping Products Act* in the *Budget Implementation Act* and align restrictions on vaping marketing with those currently in place for tobacco marketing.<sup>1</sup>
- Increase resources in order that better surveillance systems on the use of vaping products be put in place.
- Increase resources for enforcement of the *Tobacco and Vaping Products Act*.
- Increase research on the role of vaping products in harm reduction related to smoking.

Sincerely yours,



Neil Collishaw,  
Research Director  
Physicians for a Smoke-Free Canada

**Attachments:**

<sup>1</sup> Proposed amendment to the Tobacco and Vaping Products Act.