

Canadian Implementation of the WHO Framework Convention on Tobacco Control

Medical and Health Research Network
The University of Hong Kong

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Hong Kong, China – November, 2004

Tobacco Induced Disease

- World-wide number of smokers to increase from 1.1 billion to 1.6 billion by 2025.
- Mortality will more than double to 10 million per year by 2030.
- 191 members of the World Health Assembly, governing body of the WHO, unanimously support the resolution initiating the Framework Convention on Tobacco Control (FCTC).
- FCTC scheduled to be adopted by May 2003.

Guiding Principles of the FCTC

- Tobacco important contributor to health inequity in all societies.
- Tobacco is a harmful commodity, addictive, and damages health.
- Need a fully informed public as to the hazards of tobacco.
- Health sector has lead responsibility to combat 'the scourge'.
- All sectors of society must be engaged and contribute.

General Objectives of the FCTC

- **Protecting** children and adolescents from exposure to and use of tobacco products and their promotion.
- **Preventing** and treating tobacco dependencies.
- **Promoting** smoke-free environments.
- **Promoting** healthy tobacco free economies, especially stopping smuggling.
- **Strengthening** women's leadership role in tobacco control.
- **Enhancing** global capacity in tobacco control and improving knowledge and exchange of information at national and international levels.
- **Protecting** vulnerable communities, including indigenous peoples.

Protocol Subjects for the FCTC

- Prices
- Smuggling
- Ban on tax free products
- Advertising/sponsorships
- Internet advertising/trade
- Packaging/design/labeling
- Environmental Tobacco Smoke
- Product Regulation
- Testing Methods
- Protection of Children and Adolescents
- Cessation
- Agricultural Diversification

Expected FCTC Impacts

Sustainable and Measurable Impacts:

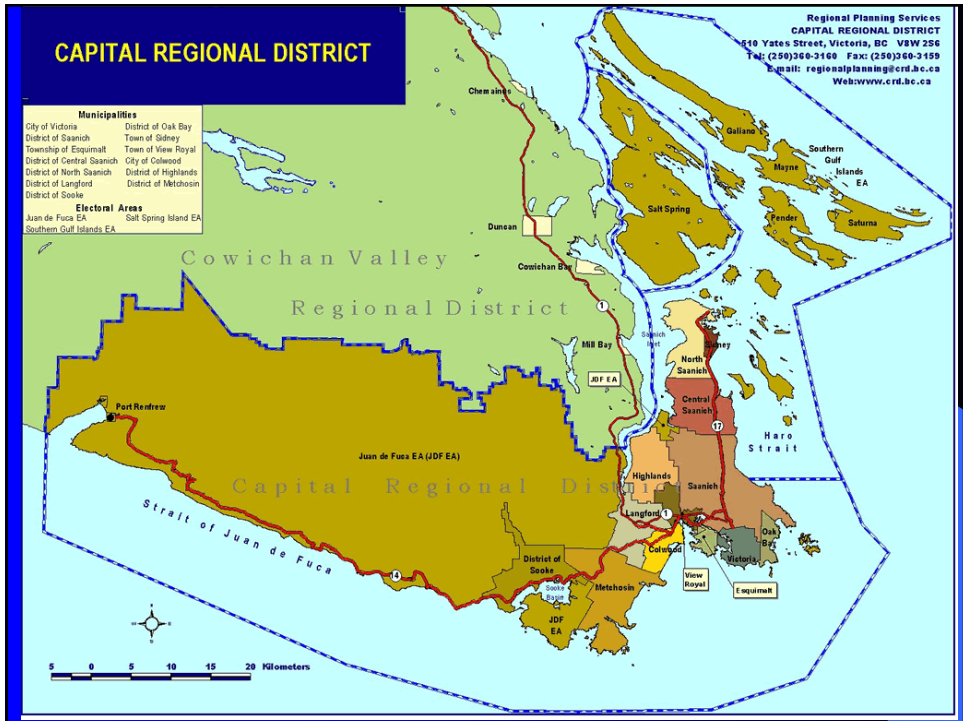
- Increased excise taxes
- Bans on tobacco advertising, sponsorship and marketing
- Controls on smoking in public places
- Expanded access to effective means of quitting
- Tough counter-advertising
- Tight controls on smuggling



MARTIAL TREZZINI/ASSOCIATED PRESS

Norwegian Gro Harlem Brundtland, director general of the World Health Organization, stands beside 'death clock,' which reveals the number of tobacco deaths since Oct. 25, 1999.





WARNING
CIGARETTES ARE A HEARTBREAKER

Tobacco use can result in the clogging of arteries in your heart. Clogged arteries cause heart attacks and can cause death.

Health Canada

WARNING
CIGARETTES CAUSE LUNG CANCER

85% of lung cancers are caused by smoking. 80% of lung cancer victims die within 3 years.

Health Canada

WARNING
CIGARETTES CAUSE MOUTH DISEASES

Cigarette smoke causes oral cancer, gum diseases and tooth loss.

Health Canada

WARNING
TOBACCO USE CAN MAKE YOU IMPOTENT

Cigarettes may cause sexual impotence due to decreased blood flow to the penis. This can prevent you from having an erection.

Health Canada

Quebec asks court to invalidate tobacco firm's financial dealings

BY TU THANH HA, MONTREAL

Canadian tobacco giant JTI-Macdonald Corp. fraudulently created a cluster of subsidiaries and conducted a series of loans within them totalling more than \$1.5-billion to strip its assets and evade taxes, Revenue Quebec is alleging, asking the courts to void those transactions.

The allegations are outlined in a petition filed in Quebec Superior Court last week, after the province issued a record \$1.36-billion assessment in back taxes against Macdonald, the manufacturer of the popular Export A cigarette brand.

In its court filing, Revenue Quebec says the company owed the money because it smuggled into Canada cigarettes initially exported to the United States tax-free.

Macdonald's transactions were first mentioned in the civil suit the federal government launched last year against the company but they did not draw public attention. The Quebec government's filing outlines those transactions in further detail as the province asks the Superior Court to declare them ineffective.

"Macdonald conducted tobacco smuggling operations to evade paying tobacco taxes, during the period between January 1, 1990, to December 31, 1998," the Quebec government filing says.

"Subsequently, Macdonald conducted, with the help of corporations within its group, a series of complex, sophisticated transactions to decrease artificially its wealth and try to shelter its assets, in fraud of Quebec taxes."

The transactions took place in 1999 and 2000 as Macdonald created a number of subsidiaries incorporated in Nova Scotia and then made loans and issued corporate debentures within them, the filing alleges.

Macdonald's actions were a "scheme to skirt its obligations," the government court filing says.

Corporate records show that one series of transactions involved \$1.2-billion, another involved \$410-million, Revenue Quebec says.

Also, the court document says, Macdonald ceded to a subsidiary the trademarks over 377 brands, including Export A, for the sum of \$1 "and other good and valuable consideration."

In addition, Macdonald paid \$100-million in dividends to a parent corporation, "depriving its wealth of that much in detriment of the Quebec tax system."

A spokeswoman for Macdonald in Montreal did not return a call requesting comment.

The parent corporations Macdonald created include JTI-Macdonald TM Corp., JT Canada LLC Inc. and JT Canada LLC II Inc.

The 1999 certificate of amalgamation that changed Macdonald's corporate structure must be declared to be without effect, the Quebec government argues. The petition also seeks the nullification of nine transactions, such as a security agreement, deeds of hypothec or pledges of shares that Macdonald undertook.

"The plaintiff," the Revenue Quebec claim says, "submits that the situation created by Macdonald and corporations within its group has to be redressed and the transactions undertaken in fraud of its rights must be declared ineffective."

Macdonald says it acts in a legal fashion but "why would it need to create such a complex structure to shield itself?" said Francois Dampousse, Quebec director for the Non-Smokers' Rights Association.

"The Quebec government deserves praise from all of us for finally taking on the tobacco industry and showing it that it can no longer act in impunity..." he said.

The Quebec Revenue Department acknowledged filing the claim but "declined further comment. Previously, when the department obtained judgment for its \$1.36-billion tax assessment, media inquiries were referred directly to Revenue Minister Lawrence Bergman.

THE \$5 BILLION IN REVENUE LOST TO TOBACCO SMUGGLING THAT THESE MINISTERS ARE ABOUT TO FLUSH DOWN THE DRAIN COULD BE INVESTED IN HEALTH CARE



Attorney General and Minister of Justice
Martin Cauchon



Minister of National Revenue
Elinor Caplan

Why are they reluctant to re-file the Governments' smuggling lawsuit in a Canadian court?

A letter to Attorney General Martin Cauchon and Minister of Revenue Elinor Caplan

Dear Ministers Cauchon and Caplan:

In December 1999, Canada sued RJR-Macdonald Inc. (now JTI-Macdonald Corp.) and sister companies in the United States to recover tax losses from tobacco smuggling. The suit was brought under the Racketeer-Influenced and Corrupt Organizations Act (RICO) in the United States where some of the alleged illegal activity took place.

The lawsuit alleged that there is ample evidence that the tobacco industry was heavily involved in the cigarette smuggling that led to the rollback of Canada's tobacco taxes in 1994. This illegal activity led to two devastating impacts on Canada. First, the increase in smoking from the availability of contraband as well as from the "deep discount" cigarettes that resulted from the tobacco tax reductions will lead to substantial increases in tobacco-caused illness and death in the future. The low prices were especially destructive for adolescents.

through a handful of traders and flood the marketplace with the black-market tobacco.

Each of Canada's big three tobacco companies, RJR-Macdonald, Rothmans Benson & Hedges Inc., and Imperial Tobacco, organized their own corporate structures or signed special contracts to service this black market."

In the words of the Hon. André Denis of the Quebec Superior Court in his December 15, 2002 decision in *JTI-Macdonald v Canada*: "The industry was a willing accomplice of black-market cigarette smugglers." Ministers, a decade after this corporate misbehaviour, those responsible have not been held to account. Is a government that purports to be fiscally responsible not prepared to recover these losses?



CANADA'S ROYAL WINNIPEG BALLET

Artistic Director: Arnold Spahr



In special arrangement with Hambel Shaw

CANADA'S ROYAL WINNIPEG BALLET

Artistic Director: Arnold Spink



In special arrangement with David Lewis

1 mg. "tar", 1.3 mg. nicotine av. per cigarette. FTC Report: MAY '78.

Satisfaction, Camel Filters style.

Some men taste it all: Rich warm flavor. Smooth even taste. Solid satisfaction.

Only from the Camel Filters blend of Turkish and domestic tobaccos.

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.



VIRGINIA SLIMS



You've come a long way, baby.



In 2007, Priscilla Vincent cleverly concealed 142 cigarettes among the cabbage roses decorating her hat.



Unfortunately for her, a sudden gust of wind proved to be quite revealing.



Which only goes to show, a woman just can't keep a secret under her hat.

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.

Regular: 8 mg "tar", 0.7 mg nicotine - Menthol: 8 mg "tar", 0.6 mg nicotine av. per cigarette. FTC Report Mar. 83.

© Philip Morris Inc.

It's More you.



*It's long.
It's slim.
It's elegant.*

20 CLASS A CIGARETTES

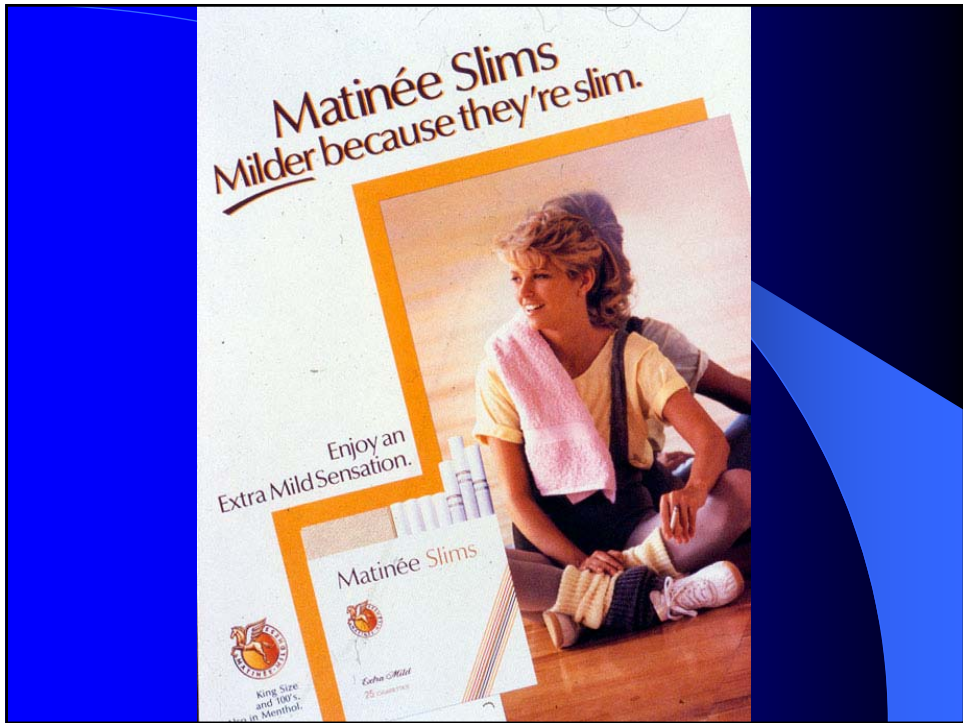
More

FILTER CIGARETTES

120^s

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.

16 mg "tar", 1.3 mg. nicotine av. per cigarette by FTC method.



What is in Cigarettes?



[Home](#) | [Tobacco Control](#) | [Regulation](#) | [Testing](#) |

Tobacco Testing and Disclosure Regulation

British Columbia established the Tobacco Testing and Disclosure Regulation (the Regulation) and became the first jurisdiction in the world to require Canadian tobacco manufacturers to disclose on a brand-by-brand basis the contents of cigarettes and tobacco and the levels of potentially toxic chemicals in tobacco smoke.

The Tobacco Testing and Disclosure Regulation (the Regulation) requires the following:

- Requires that every manufacturer submit quarterly reports for 1998- April 2001 , then annually thereafter, to the Minister of Health Services which identify and list, by brand, all ingredients and additives in every brand of cigarette or cigarette tobacco of the manufacturer that is sold, offered for sale, distributed, advertised or promoted in British Columbia.
- Requires manufacturers to test both the smoke that comes out the filter end of the cigarette, called 'mainstream' smoke, as well as the smoke rising off the smoldering end of the cigarette, called 'sidestream' smoke. This smoke is tested for a number of smoke constituent chemicals and two physical characteristics (i.e., filter efficiency and pH). The number of smoke chemicals was reduced for the reporting years 2001 and beyond for all sidestream Intense Puff Regimes.

<http://www.healthservices.gov.bc.ca/ttdr/regs.html>





1998 206

FOR IMMEDIATE RELEASE - November 12, 1998

MINISTRY OF HEALTH

PROVINCE SUES TOBACCO COMPANIES

VANCOUVER - A precedent-setting lawsuit to recover tobacco-related health costs from three principal tobacco companies and their multi-national affiliates was filed today by Attorney General Ujjal Dosanjh and Health Minister Penny Priddy in the province's toughest anti-tobacco action to date.

"The government alleges that the tobacco companies knew of the addictive nature and dangerous health effects of tobacco use and that they conspired to conceal the risks of smoking from consumers," said Dosanjh.

"We allege that the business practices of the tobacco industry are unconscionable," said Dosanjh. "Tobacco companies should be held accountable for the devastating effects of their harmful products."

"Our ultimate goal is to protect B.C. children from becoming addicted to the tobacco industry's deadly products," said Priddy.

Priddy said the evidence will show that actions of the big tobacco companies have had deadly health consequences for the people of British Columbia.

"For years B.C. taxpayers have been shouldering the health care costs of illnesses caused by tobacco," said Priddy. "It's time that burden was lifted and placed squarely where it belongs - on the tobacco companies."

The government of British Columbia is suing the three principal Canadian manufacturers of cigarettes in Canada and British Columbia: Imperial Tobacco Limited, Rothmans, Benson & Hedges Inc., and R.J.R. Macdonald Inc. The province is also suing the parents of the Canadian companies and their U.S.-affiliated companies whose products were sold in British Columbia.

The province is seeking to recover costs incurred, or that will be incurred, by the province to deliver tobacco-related health care. Specifically, the province will argue that the tobacco companies:

- have known for many years that cigarettes are addictive and can cause a variety of diseases and even death;
- failed to warn consumers of the dangers of smoking;
- targeted children in their advertising and marketing;
- conspired to suppress research into the risks of smoking and conspired to invalidate the public warnings on the risks of smoking; and
- are responsible for health care costs associated with smoking.

The lawsuit will be handled by the province's legal team headed by Thomas Berger, QC, and by Daniel Webster, QC, Elliot Myers and Don Holubitsky of the Vancouver-based law firm Bull, Housser and Tupper.

Living the FCTC – Victoria, British Columbia's Experience

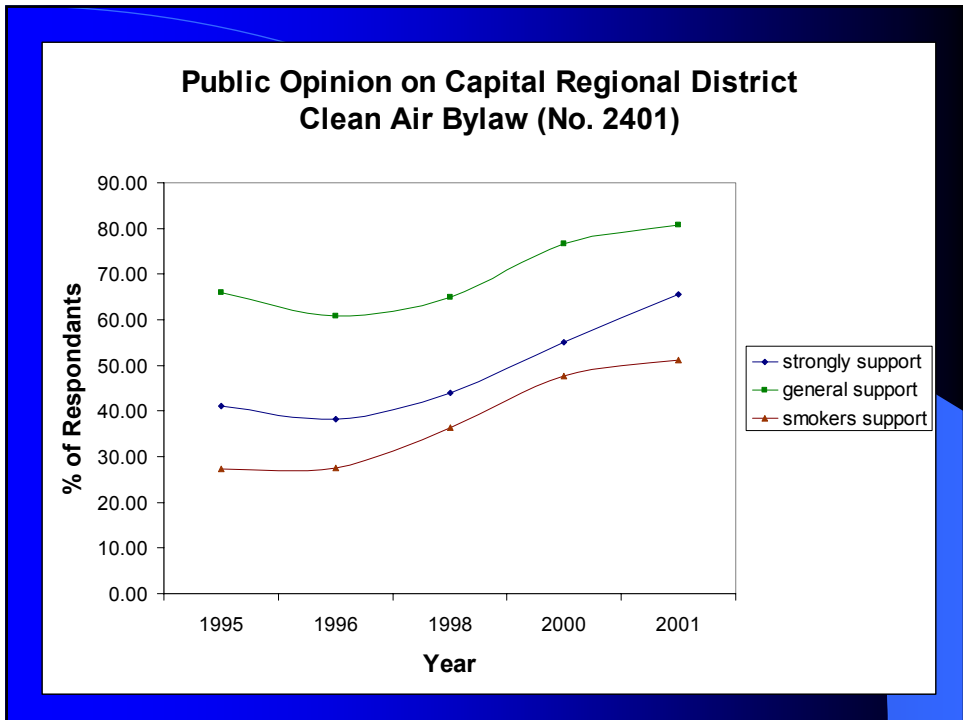
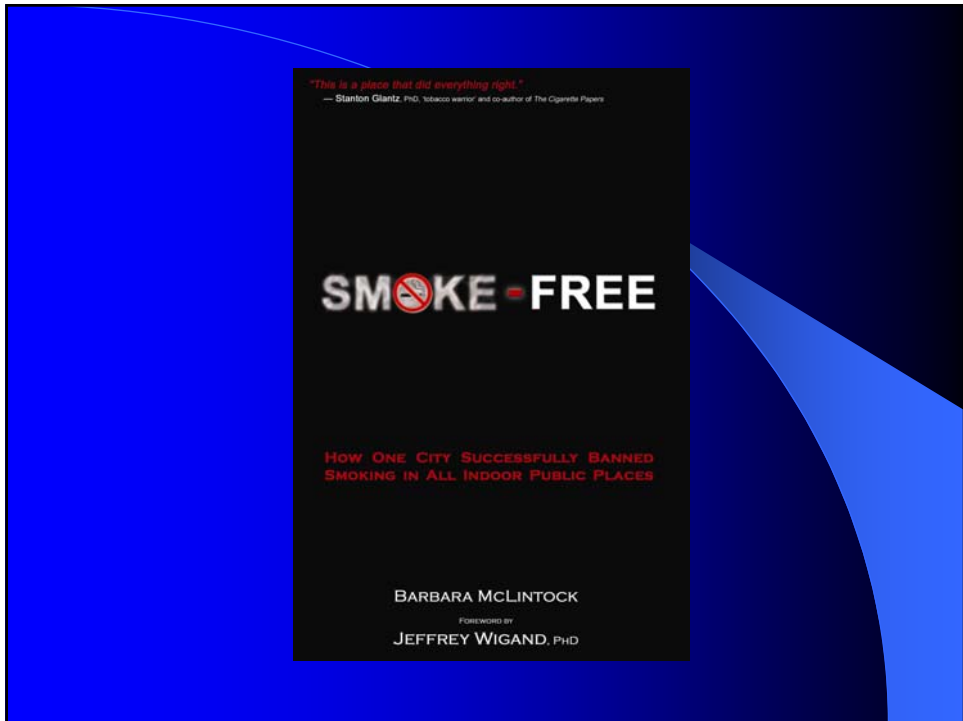
- Tobacco Taxation
\$6.75 CDN (43 CNY)/package
- Tobacco Sales Act Violations – Sales to Minors
 - Fines
 - Suspension/loss of license to sell tobacco
- Smokefree Schools (September 1996)
- Smoke Free Places for Kids



Living the FCTC – Victoria, British Columbia's Experience (con't)

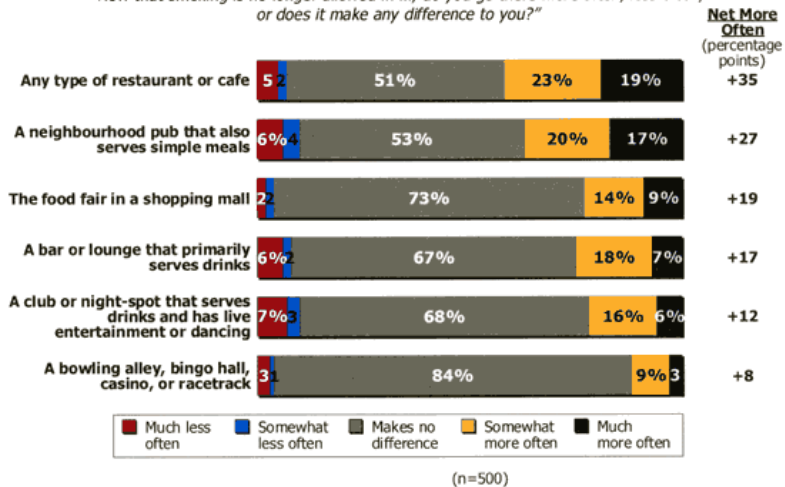
Capital Regional District Clean Air Bylaw No.1, 1996

- As of January 1st, 1999 all public spaces including restaurant and bars to be smokefree. Compliance over 90% by year end and over 98% compliance level in all public places as of June 2002.
- Public support for bylaw over 81% by 2001 (with more than 50% of smokers in favour).
- 3 month economic downturn of 6.2% in liquor sales (2nd quarter 1999) but no statistically significant long-term effect. No measurable effect on tourism or hospitality industry employment.
- Smoking rate has dropped from 22% in 1996 to <14% in 2004.



Impact of Smoking Bylaw on Frequency of Patronage

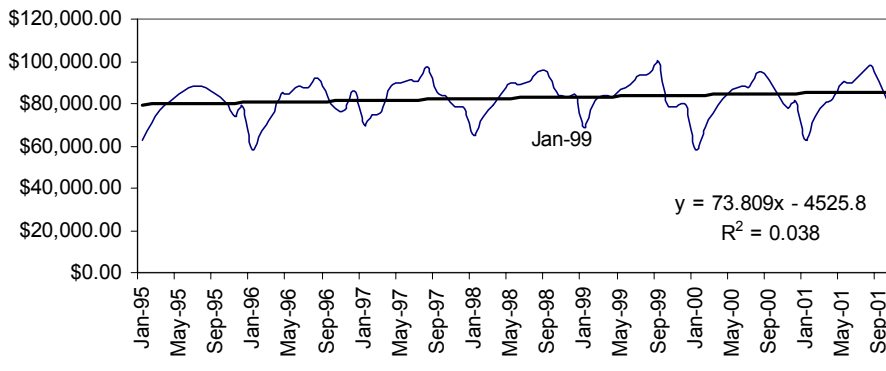
"Now that smoking is no longer allowed in ..., do you go there more often, less often, or does it make any difference to you?"



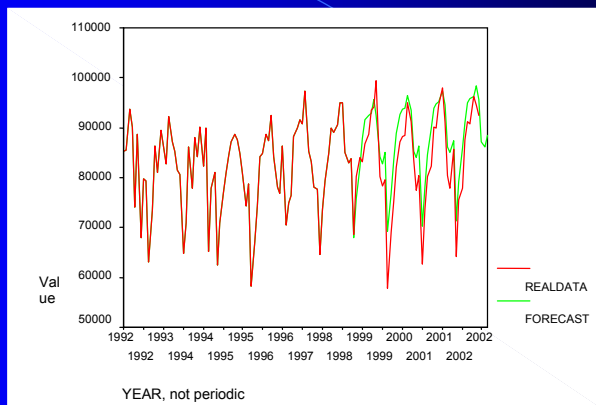
Results

- Volume of liquor sales has been slowly declining over time but prices to industry have been going up - resulting in little change in overall value of annual sales.
- The self-reported losses were not substantiated. Neither the T-test nor the ARIMA found a statistically significant difference in liquor sales between the two time intervals.

Liquor Licensee Purchases (excluding off sales), Avg. per day by month (January 1992 Dollars)



ARIMA: Comparing the forecast of the liquor purchases - actual data and the predictive data 1999 to 2002



Discussion

- The use of exaggerated economic losses to thwart clean indoor air bylaws is a popular tactic used by opponents. The Victoria experience parallels many US jurisdictions and Ottawa, Canada in demonstrating either a non-statistically significant impact or a small but transient impact on business.
- This finding should serve as further evidence of the generally neutral impact clean air regulations have on business.
- An independent analysis of Victoria's experience with the bylaw was in keeping with others' findings surrounding economic impact on the hospitality sector; it importantly found no impact on tourism or employment rates in the hospitality industry after the bylaw.

Conclusions

- The only business that suffers long term when clean indoor air is secured for the public is the tobacco industry.
- Smoking rates in Victoria have dropped from 22% at the time the bylaw was passed in 1996 to less than 15% in 2001, two years after the bylaw came into effect.
- Now all employees in our region enjoy a smoke free workplace.

Questions?

To download this presentation please go to:
<http://www.viha.ca/mho>

“Should the FCTC be implemented with the health of the public paramount, in 2030 there still will be 1-1.2 billion smokers.”

This epidemic is of our own making and can only be conquered through our collective action at the local, national, and international level.