**Application for Review**

**Section 61, *Environmental Bill of Rights***

**The Need for New Provincial Legislation and Policy on Littering**

**Submitted by Sheila White and Alex King**

**Date: November 19, 2012**

1(b) We request a Review of the need for a new policy, Act or regulation.

√ Policy √ Act Regulation

To augment government legislation and policies relating to litter

*Environmental Protection Act*: Part IX relating to litter prevention

To suggest that the Ontario Ministry of the Environment should have a role in the province-wide problem of littering ought not require much explanation. It would appear to be self evident and understood as a mandate of a ministry with ‘environment’ in its name. Unfortunately, our query to find someone at the ministry with whom to discuss the subject of littering came up short on answers. We have come to conclude, and our research bears this out, very little attention is being paid in Ontario to reducing the epidemic rate of littering (estimates range from 30-75 per cent) despite its consequential harm to the environment and great cost to the public. Littering and dumping, what we refer to in this application as ‘waste mismanagement’, demand the need for oversight and overarching coordination by the provincial ministry of the environment.

In the course of our research we met with officials from Stewardship Ontario, the government’s private, not-for-profit, industry-funded agency that implements recycling and product stewardship programs and eco-fee collection. This agency’s mandate does not extend to having anything to do with litter or littering. Its role is to manage waste “at the end of its life”, which litter is not, in the view of Stewardship Ontario on behalf of its industry partners, who happen to be makers of products that are frequently littered.

According to Stewardship Ontario, the province alone used 235,000 tonnes of plastic packaging in 2009. Only about a quarter of that was recovered. (16)

We spoke to Waste Diversion Ontario and learned that a ministerial request through WDO to the industry groups asked that they review their role in litter recapture was contentious and not adequately addressed by WDO’s response. (18)

This request for a Review will include among its documented sources a report by Andrew McNaught of the Research Branch of the Legislative Assembly of Ontario, prepared in 2010 at the applicant’s request as an LAO employee at the time. It will be included in its entirety. Full credit for its in-depth look at tobacco litter belongs to the Research Officer. His research identifies the following pieces of Ontario legislation:

… /2

*Environmental Protection Act*: Part IX of the Act deals with “litter.”[[1]](#footnote--1) Section 86 provides that “No person shall abandon any material in a place, manner, receptacle or wrapping such that it is reasonably likely that the material will become litter.” Section 89 provides that the maximum fine for littering is $1,000 for a first conviction and $2,000 for subsequent convictions. Bill 28, a private members bill proposed in 2010, proposed to increase these maximum fines to $2,000 and $3,000, respectively. The bill no longer has active status.

*Highway Traffic Act*: Section 180 of the Act prohibits littering on a highway, as follows: “Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway.” Bill 28, see above, proposed adding cigarette butts, cigarettes, cigar butts and cigars to this list.

Essentially these are merely laws on the books. Enforcement is neither routine nor rigorous. Education is lacking and oversight is virtually non-existent. Our calls in August 2012 and follow-up email to discuss littering with an official within the Ministry of Environment have been fruitless. Littering would appear to have a ‘no priority’ status or at best a low priority at the Ministry of Environment. This has to change for the environmental reasons that will be outlined further in this application.

… / 3

2. I believe the ministry should undertake my Review to protect the environment because:

* Four out of ten people admit to littering and some studies suggest the rate is much higher. Ontario does not provide statistics. (1)
* Discussion of littering must extend beyond cleaning up, and the environment will benefit from legislation and policies that address the root causes.
* Due to the effect of litter on the environment, attention is being paid to this issue globally. (2)
* Daily stories from around the world outline how various governments are responding to the problem of people littering in an attempt to control it. (3)
* Litter has a known and longstanding environmental impact, which includes damage to wildlife, beaches, naturalized areas and waterways, not to mention visual pollution, and contaminates leaching into the soil. (4)
* Cigarette waste is an identified environmental threat in countries such as Italy. (5)
* In Singapore, litter was identified as a prime cause of pollution. (6)
* The volume of solid waste is growing. (7) (16)
* The volume of litter accumulation outpaces and outstrips the public’s ability to clean up. (8)
* Ontario’s effort on littering is pale. Disposal and collection is offloaded to municipalities and industry groups. (9) Heavy emphasis is placed on clean up days, which actually supports the behavior of the litterer, who believes someone will clean up after him/her. (10)
* The cycle of littering needs to be broken. Relying solely on volunteers and clean up days does not change the rate of littering. (11)
* The ministry that deals with waste management should also deal waste **mis**management, given litter’s impact on the environment. Its agency, Stewardship Ontario, does not include dealing with litter in its mandate.
* The ministry must have an over-arching role in litter prevention so that all ministries and interest groups can meet and work on developing a coordinated and serious response that will reduce the rate of littering, set targets and develop reporting systems for litter and litter reduction, e.g. reduce to 20 per cent from 40 per cent, publish branded litter surveys provincially, along with better legislation actual enforcement. (17)
* There needs to be a lead ministry on this file to coordinate the involvement of all the other ministries that littering touches: Ministry of Transportation/Urban Transit; Natural Resources; Attorney General; Education; Citizenship and Immigration; Health; Municipal Affairs and Housing; Parks, Recreation, Tourism; Government Services; Public Safety and Corrections
* Other Canadian provinces recognize a role for litter control in their provincial mandates and legislation. (12)
* An increasing population and consumerism guarantee the problem of littering will grow.
* Without a government strategy and leadership from the Ministry of the Environment, littering will continue to create harm to the environment.
* According to the Marine Protection Agencies, littering harms marine life. (4)
* A lack of consistent maintenance, budgets, enforcement and policy standards means litter is worse in some areas of Ontario than others. (13) … /4

2. Reasons (cont’d)

* To ignore littering is a missed opportunity to help the environment.
* It is estimated that 4.5 trillion cigarette butts, representing 1.7 billion pounds, end up as litter around the world each year. We refer you to the Ontario research report from November 2010 (11 (ii)).
* The connection between littering and environmental damage is self-evident yet our province is doing next to nothing about it. (14)
* An absence of Ministry of Environment involvement in litter prevention dooms the environment to further degradation and unchanged littering behaviors.
* Other major jurisdictions are taking steps to address out-of-control littering for environmental reasons. (15)

… 5/

3. The following is a summary of evidence supporting my Application for Review:

**(1) Four out of ten people admit to littering. The Ontario Ministry of Environment does not keep statistics.**

(i) Source: statisticbrain.com *75 per cent of people (US) littered over the past five years* <http://www.statisticbrain.com/littering-statistics/>

(ii) Source: Victorian Litter Action Alliance, Sustainability Victoria, Australia

<http://www.litter.vic.gov.au/resources/documents/Fact_Sheet_Littering_Statistics_HR.pdf>

**(2) Due to the effect of litter on the environment, attention is being paid to this issue globally**.

<http://www.kabc.wa.gov.au/news/352-litter-act-amendments-pass-lower-house.html>

Source: Keep Australia Beautiful “Litter act amendments pass lower house” Aug. 21, 2012

**(3) Daily stories from around the world outline how various governments are responding to the problem of people littering in an attempt to control it.**

[www.litterpreventionprogram.com/news-reel.html](http://www.litterpreventionprogram.com/news-reel.html)

(i) Source: Channel News Asia “Anti-littering surveillance cameras to be set up at 100 locations” Aug. 30, 2012

<http://www.channelnewsasia.com/stories/singaporelocalnews/print/1222962/1/.html>

(ii) Source: Fiji Online “Crackdown on Litter Bugs” Aug. 22, 2012

<http://www.fijitimes.com/story.aspx?id=209738>

(iii) Source: Jamaica Observer “1,600 ticketed for breaching ant-litter law (NSWMA)” Sept. 12, 2012

<http://www.jamaicaobserver.com/news/1-600-ticketed-for-breaching-anti-litter-law>

(iv) Source: Daily Observer (Gambia) “Magistrate to preside over anti-littering cases” Sept. 14, 2012

<http://observer.gm/africa/gambia/article/kmc-magistrate-to-preside-over-anti-littering-cases>

(v) Source: Green Business Times “Turning Singapore into a clean city, not a cleaned city” Sept. 15, 2012

<http://www.greenbusinesstimes.com/2012/09/16/turning-spore-into-a-clean-city-not-a-cleaned-city-balakrishnan-news/#more-6268>

**(4) Litter has a known and longstanding environmental impact, which includes damage to wildlife, beaches, naturalized areas and waterways, not to mention visual pollution, and contaminates leaching into the soil.**

(i) Source: Campaign for Recycling – “Chico Bag Suit Settled, Plastic Industry to Note Litter Impacts of Bags” Sept. 13, 2012 <http://www.campaignforrecycling.org/whats_new/recycling_news/sept13_chicobagsettlement>

(ii) Source: National Solid Wastes Management Association (US)

<http://pollutionarticles.blogspot.ca/2012/02/why-is-littering-bad-for-environment.html>

(iii) Source: MPA News, Vol 13, No. 3, November/December 2011

<http://depts.washington.edu/mpanews/MPA123.pdf> … /6

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(iv) Source: Canadian Press “Seabirds ingesting plastic litter off Pacific coast” July 4, 2012,citing study, published online in *Marine Pollution Bulletin*, suggesting plastic pollution should be monitored annually and people need to be aware of the long-term effects of what they're tossing out.

<http://www.theprovince.com/mobile/news/vancouver/Seabirds+ingesting+plastic+litter+Pacific+coast/6883372/story.html>

(v) Materials Recycling Week, Oct. 2, 2012 “Marine litter costs Scotland 17 million pounds a year”

**(5) Cigarette waste was declared an environmental threat by scientists in Italy.**

Source: Science News “Cigarette butts poisoning environment” Jan. 22, 2010

<http://www.upi.com/Science_News/2010/01/22/Cigarette-butts-poisoning-environment/UPI-50301264177352/#ixzz21mqDD5ig>

**(6) In Philippines, the Department of Environment and Natural Resources identified cigarette butts as a prime cause of pollution in 2010.**

Source: The Inquirer “Cigarette butts 2nd top polluter in Philippines” Nov. 14, 2010

<http://newsinfo.inquirer.net/breakingnews/nation/view/20101114-303209/Cigarette-butts-second-top-polluter-in-PH----DENR-report>

**(7) The volume of solid waste is growing.**

(i) Source: environmental-expert.com, “Global Municipal Solid Waste Continues To Grow”

<http://www.environmental-expert.com/news/global-municipal-solid-waste-continues-to-grow-306915>

(ii) Source: Keep America Beautiful, “Reflecting the increasing use of plastic in packaging materials over the last 40 years, plastic litter has increased 165 per cent.”

<http://ilivehereqc.org/wp-content/uploads/NATIONAL-LITTER-STATISTICS.pdf>

**(8) The volume of litter accumulation is far greater than the public’s ability to clean up.**

Source: GulfNews.com, Dubai: “45000 cigarette butts picked up from beach” Nov. 28, 2010

<http://gulfnews.com/news/gulf/uae/environment/45-000-cigarette-butts-picked-up-from-beach-1.719406>

**(9) Ontario’s effort on littering is pale, devolved to the Ministry of Transportation. Disposal and collection is offloaded to municipalities and industry groups.**

(i) Source: Government of Ontario Website

<http://news.ontario.ca/mto/en/2008/05/keeping-ontarios-highways-clean.html>

(ii) Source: Ontario Ministry of Environment Waste Diversion website tab

<http://www.ene.gov.on.ca/environment/en/subject/waste_diversion/index.htm>

(iii) Source: Ontario MOE Website ‘Kids Zone’, *Explore Water*, 2010.

… /7

**(10) Heavy emphasis is placed on clean up days, which merely bolsters the litterer, who believes someone will clean up after him/her.**

(i) Source: 1310 News “Littering costing Ottawa millions annually”

<http://www.1310news.com/news/local/article/391720--littering-costing-ottawa-millions-annually>

(ii) Source: Ontario Ministry of Transportation <http://news.ontario.ca/mto/en/2008/05/keeping-ontarios-highways-clean.html>

**(11) The cycle of littering needs to be broken. Relying solely on volunteers and clean up days does not change the rate of littering.**

(i) Source: County of Fingal, Ireland, Litter Management Draft Plan 2012 to 2015

<http://www.litterpreventionprogram.com/uploads/1/3/0/3/13036366/fingal_litterplan_draft_2012.pdf>

(ii) Source: Legislative Assembly of Ontario Research report by Andrew McNaught; November 9, 2010 (attached)“**Education:** Studies show that education campaigns can reduce cigarette litter by as much as 50%; however, education needs to be ongoing in order to have long-term effects.”

**(12) Other provinces recognize a role for litter control in their provincial mandates and legislation.**

*Alberta*

(i) Source: Government of Alberta, Ministry of Environment

<http://environment.gov.ab.ca/info/library/6204.pdf>

*British Columbia*

(ii) Source: Blakes 17th Annual Overview of Environmental Law and Regulation in

British Columbia 2012, Blake, Cassels & Graydon LLP

<http://www.blakes.com/english/legal_updates/reference_guides/environmental/Blakes_Environmental_Overview_2012.pdf>

(iii)Source: City of Burnaby. In this city website one sees how a provincial mandate can spawn a culture of caring about littering within the province: “Litter is a Health Hazard -- It's not just that it looks awful. Cups full of rainwater make a perfect breeding ground for disease-carrying mosquitoes. Rats, insects and bacteria all love litter. It clogs storm drains and causes serious flooding. Increases environmental risks - hazardous waste can contaminate soil and water.”

<http://www.burnaby.ca/City-Services/Garbage---Recycling/Education---Resources/Litter-Awareness.html>

*Manitoba*

(iv) Source: Government of Manitoba <http://www.immigratemanitoba.com/living-in-manitoba/canadian-way-of-life/>

**Your rights and responsibilities.** This page discusses Canadian culture and social customs as well as your rights and responsibilities under the law. Social customs, standards/ Interacting with officials/ Your rights and obligations/ Citizenship

**“Respect for the environment:** Canadians respect the natural environment and expect people to avoid littering (dropping waste paper and other garbage on the street or throwing it out of your car, spitting in public). They expect you to hold on to your garbage until you can find a proper garbage can.”

… /8

**(12, cont’d)**

*New Brunswick*

(v) Source: CBC News Canada “Recycle NB launches provincial litter survey”

<http://www.cbc.ca/news/canada/new-brunswick/story/2012/06/12/nb-recycle-litter-survey.html>

*Newfoundland*

(vi) Source: Government of Newfoundland

<http://www.releases.gov.nl.ca/releases/1996/envlab/0308n02.htm>

*Nova Scotia*

(vii) Source: Government of Nova Scotia. Excerpts attached show where the Act mentions “litter” 14 times, not counting the definition. <http://nslegislature.ca/legc/statutes/envromnt.htm>

*Prince Edward Island*

The Province of PEI, in cooperation with industry, municipal, law enforcement and community partners, promotes a provincial litter awareness campaign.  The campaign encourages residents and visitors to help keep the Island clean by putting litter in its place.  For more information about the litter awareness campaign, call 1-866-368-5024.

(viii) Source: Government of PEI <http://www.gov.pe.ca/environment/litter>

The annual roadside litter survey, a joint effort of PEI government departments and agencies, industry sectors and other interested groups, is conducted by the Southeast Environmental Association as part of the province's litter awareness campaign.

(ix) Source: EcoWeek.ca, March 27, 2006 <http://www.ecoweek.ca/issues/ISarticle.asp?aid=1000202491>

*Saskatchewan*

(x) Source: Saskatchewan MOE in 1988 The Litter Control Act and its regulations. SARCAN, environmental handling charge, cans, plastic … (News Release from May 2008)

<http://www.environment.gov.sk.ca/Default.aspx?DN=059e8927-6e80-4594-831c-6312a7e298c6>

(xi) Source: Government of Saskatchewan Publications <http://www.publications.gov.sk.ca/details.cfm?p=604>

Litter Control Act

(xii) Source: Government of Saskatchewan <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L22.pdf>

\*\* Ontario\*\*

Source: ibid. Exhibit 11 (ii) (Source: ibid. Exhibits 9 and 10)

* *Environmental Protection Act*: Part IX of the Act deals with “litter.”[[2]](#footnote-0) Section 86 provides that “No person shall abandon any material in a place, manner, receptacle or wrapping such that it is reasonably likely that the material will become litter.” Section 89 provides that the maximum fine for littering is $1,000 for a first conviction and $2,000 for subsequent convictions. Bill 28, a private members bill proposed in 2010, proposed to increase these maximum fines to $2,000 and $3,000, respectively. The bill no longer has active status.
* *Highway Traffic Act*: Section 180 of the Act prohibits littering on a highway, as follows: “Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway.” Bill 28, previously mentioned, proposed adding cigarette butts, cigarettes, cigar butts and cigars to this list.

**(13) A lack of consistent maintenance, budgets, enforcement and policy standards means litter will be worse in Ontario in some areas than in others.**

curelitter.ca, a particularly good website, program and task force in Cambridge, Ontario is, unfortunately, not the norm.

(i) Source: Regional Municipality of Cambridge<http://www.curelitter.ca/sef/page/id/6.html>

**(14) Just as MOE is involved integrally in waste management matters so should it be equally concerned with the flip side, waste mismanagement and its impact on the environment.**

Source: ibid. Exhibit 11(ii)

**(15) Other major jurisdictions are taking steps to address out-of-control littering for environmental reasons.**

(i) Source: <http://www.litterpreventionprogram.com/newsreel>

(ii) Source: State Government of Victoria Australia Environment Protection Authority

<http://www.epa.vic.gov.au/get-involved/report-litter/litter-websites>

**(16) According to Stewardship Ontario, the province alone used 235,000 tonnes of plastic packaging in 2009. Only about a quarter of that was recovered.**

Source: The Globe and Mail, 2011, “Solving Our Plastic Problem” by Grant Buckler

<http://www.theglobeandmail.com/report-on-business/small-business/solving-our-plastic-problem/article568830/>

**(17)** **The ministry must have an over-arching role in litter prevention.**

Source: Letter to Minister of the Environment from Gail Cosman, President, Nestlé Waters Canada, February 1, 2010, noting Ontario’s lack of littering policy, programs and funding in company’s response to: *The Role of Waste Diversion in the Green Economy – Minister’s Report On the Waste Diversion Act 2002 Review*.

<http://www.owma.org/lib/db2file.asp?fileid=1023>

**(18) Environment Minister John Gerretsen’s Letter (16/10/08) & WDO Response (14/04/09) regarding Blue Box Review and request to examine litter. Emails with background from WDO staff, October 2012.**

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1. For the purposes of Part IX, “litter” is defined in s. 84 of the Act to include “any material left or abandoned in a place other than a receptacle or place intended or approved for receiving such material and ‘littering’ has a corresponding meaning.” [↑](#footnote-ref--1)
2. For the purposes of Part IX, “litter” is defined in s. 84 of the Act to include “any material left or abandoned in a place other than a receptacle or place intended or approved for receiving such material and ‘littering’ has a corresponding meaning.” … / 9 [↑](#footnote-ref-0)