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Chair: Mr. Sean Casey



Standing Committee on Health

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• (1105)

[English]

The Chair (Mr. Sean Casey (Charlottetown, Lib.)): I call this meeting to order.

Welcome to meeting number 61 of the House of Commons Standing Committee on Health. Today we will consider Bill C-252, before proceeding to drafting instructions for the report on children's health and committee business in camera.

In accordance with our routine motion, I'm informing the committee that all remote participants have completed the required connection tests.

We have with us Mr. Kram, Mr. Boulerville and Mr. Coteau, who are substituting today. Welcome to all.

I would also like to welcome back our two officials from Health Canada. They are here in case there are questions for the department about Bill C-252. Dr. Supriya Sharma is chief medical adviser, and David Lee is chief regulatory officer for the health products and food branch.

Thank you for coming back and being with us today.

(On clause 4)

The Chair: Colleagues, at our last meeting we were discussing CPC-4, which relates to clause 4. The amendment had been introduced and debate had commenced.

If we pick up where we left off, that's where we are. We are debating amendment CPC-4. The floor is open for further debate on that amendment.

Yes, Ms. Goodridge.

Mrs. Laila Goodridge (Fort McMurray—Cold Lake, CPC): Since there has been a bit of a break since the last time we met on this, I think it's just worth repeating some of the arguments as to why—

[Translation]

Mr. Luc Thériault (Montcalm, BQ): Pardon me, Mr. Chair, but there is no interpretation coming through.

[English]

The Chair: Is it back, Monsieur Thériault?

[Translation]

Mr. Luc Thériault: Yes. I would ask my colleague, Ms. Goodridge, to start over, seeing as there was no interpretation. Thank you.

[English]

The Chair: Okay.

Mrs. Laila Goodridge: Thank you, Mr. Chair.

Since it's been a couple of weeks since we last met to discuss this, I think it would be an important refresher, especially considering we have some substitutions, to understand the intent behind this amendment.

When things are measured, they are done. While I do understand that there have been some arguments as to the ability and to what we would see in a five-year-out or different time period, I do think having a review and assessing the effectiveness would be critically important to ensuring that we're actually achieving the goals we're setting out to achieve.

With that, I would just urge everyone to vote in favour of this amendment.

The Chair: Are there any further interventions with respect to CPC-4?

Seeing none, shall CPC-4 carry?

(Amendment negated [See Minutes of Proceedings])

(Clause 4 as amended agreed to)

(On clause 5)

The Chair: There is one amendment proposed for clause 5. That is G-4.

Go ahead, Mr. van Koeverden.

Mr. Adam van Koeverden (Milton, Lib.): Thank you, Mr. Chair. It's nice to be back.

Government amendment four proposes to amend clause 5 by replacing lines 27 to 31 on page 4 with the following:

referred to in that section are advertised in a manner that is primarily directed at persons who are under 13 years of age;

(e.2) limiting the forms of advertising to which section 7.1 applies;

(e.3) defining “sugars” and “saturated fat” for the purposes of section 7.1;

The intent here is that the proposed amendment is to provide sufficient regulation-making authorities to define the scope of foods in advertising activities subject to prohibition, and that these are foundational elements necessary to implement a regulatory approach.

Thank you.

The Chair: Thank you, Mr. van Koeverden.

Are there any further submissions with respect to amendment G-4?

Seeing none, shall G-4 carry?

(Amendment agreed to)

(Clause 5 as amended agreed to)

(On clause 6)

The Chair: We have one amendment proposed for clause 6.

Mr. van Koeverden.

Mr. Adam van Koeverden: Thank you, Mr. Chair.

It's simply to replace lines 32 and 33 on page 4 with the following:

This Act comes into force on a day to be fixed by order of the Governor in Council.

The Chair: That is amendment G-5.

Is there any further discussion?

Go ahead, Mr. Jeneroux, please.

Mr. Matt Jeneroux (Edmonton Riverbend, CPC): Thanks, Mr. Chair.

I'm just curious as to whether we can get some advice from our friends over there on the legislative clerk side on this. I thought there was, typically, different wording when it comes to a bill. I guess I'd like, maybe, just some explanation about how this is different from that wording.

• (1110)

The Chair: Thank you, Mr. Jeneroux.

The legislative clerk is going to take a run at it, and if the department has anything to add, we'll ask them to chime in, as well.

Go ahead, Mr. Vaive.

Mr. Justin Vaive (Legislative Clerk): Thank you, Mr. Chair.

Generally this amendment would hand over the ability for the coming into force to be determined by regulation once, presumably, that process is done. That is something that does occur from time to time in bills.

In terms of the rationale as to why, I wouldn't venture to speculate. I would hand it over to the mover of the amendment or perhaps the officials to comment on that.

The Chair: We can start with the officials.

Do you have anything to offer in connection with that question?

Mr. David Lee (Chief Regulatory Officer, Health Products and Food Branch, Department of Health): Thank you, Mr. Chair.

Given that the prohibition now relies on regulations to be made to operate, defining which foods and some of the scope, we need regulations to be in place when it comes into force. Typically we would bring in an order in council to bring it all in at the same time as the regulations are made, so technically it lines up.

The Chair: Is there anything further?

Mr. Matt Jeneroux: Thanks, Mr. Chair.

I just think it's odd because, most times, regulations would often have to come into force anyway. Why is this different from just the usual royal assent? I'm not sure if the legislative clerk is in a position to answer that. I'm guessing probably not. It just seemed a little odd from our perspective when we were reviewing this that it wouldn't just be like most private member's bills, coming into force upon royal assent.

Mr. Justin Vaive: Generally, when a bill doesn't have a provision for coming into force, you're exactly right; it does come into force upon royal assent. However, it does happen from time to time that legislation has a specific coming-into-force provision, which might be set out as is currently written in the bill or perhaps in the form of what this amendment suggests, which would specify by a certain date or at some point in the future when the Governor in Council deems it ready to come into force.

The Chair: Go ahead, Dr. Kitchen, please.

Mr. Robert Kitchen (Souris—Moose Mountain, CPC): Thank you for the comments.

I'm not a geek in the sense of legalese, but the reality is to understand that from a public point of view. The reality that I've always looked at is that, once it has royal assent, it comes into place. Now we're suggesting that an order in council puts it into place. How do you explain that to the general public? Right now, it's still too confusing.

Mr. Justin Vaive: Mr. Chair, I wouldn't want to venture into the reason why the amendment itself is being suggested or proposed. What I would confine my remarks to is simply to say that from time to time legislation is not ready to come into force immediately upon royal assent, there is some background work that is required in terms of regulations, and the coming into force date is pushed back until such time as that work is done.

Again, if the officials or the mover of the amendment have a specific reason or would like to provide additional information, I would leave that up to the officials and the member.

The Chair: Go ahead, Mr. van Koeverden.

Mr. Adam van Koeverden: I would leave it up to the officials to describe what types of regulations might need to be developed, but I know that developing good regulations takes time and that this amendment would ensure the government has sufficient time to develop, consult on and publish those regulations without having a deadline.

Of course, the members on this side—and I think I speak for others as well when I say this—would like it to be done as quickly as possible. There are billboards around the parliamentary precinct about how urgent this is, and I agree.

I hope that it can be done as expediently as possible, but I don't want that to have an impact on the nature of the work of developing those regulations.

• (1115)

The Chair: Do you have anything to add, Mr. Lee?

Mr. David Lee: No, I just essentially want to acknowledge that the department does want to move ahead quickly, but because the prohibition, for example, says “prescribed foods”, we need to fill that in before it comes into force. If it came into force a year from now, and they weren't ready with the regulations, it wouldn't work. This is why we're just waiting for the regulations to come in.

We are on it. It's something we've been working on quite directly.

Mr. Adam van Koevorden: I've not been here as long as Mr. Jeneroux, but I understand it is not uncommon to have a different coming-into-force date.

The Chair: Are there any further interventions?

Mr. Thériault.

[*Translation*]

Mr. Luc Thériault: So as to help my Conservative colleagues understand, I would remind them that the Standing Committee on Health received a letter from the Retail Council of Canada that, I believe, mentions the objectives the legislative clerks and Mr. Lee were talking about. As to when the Act comes into force, this letter said that it would be wise to take into account the fact that the industry has a lot of work to do to adapt and to understand the regulations. There are also guidelines that need to be developed, amongst other things. It seems that the objectives of industry stakeholders and those of the clerks and Mr. Lee do indeed dovetail.

The last time we met, I told you that this was a good bill. However, in order for a good bill to be enforced efficiently once it has been passed, all stakeholders have to comply with it voluntarily. At the end of the day, given that this is a type of bill whereby everything will be in the regulations, the regulations have to be drafted with the support of stakeholders. Hence the deadline.

Our Conservative colleagues think that the royal sanction might not provide enough time to do the work. I hope that my explanations will help them understand the situation, because I know that they are particularly concerned about the industry.

The Chair: Thank you, Mr. Thériault.

[*English*]

Dr. Kitchen.

Mr. Robert Kitchen: Thank you, Mr. Chair.

My question then is this: Who's making the regulations, and who's guiding them to make those regulations? Where is that coming from? From what background are these people who are making these regulations and who are putting this on the table?

Mr. David Lee: Within the Health Canada department, the food directorate has many experts who are working—experts in nutritional science—on composing regulations along with the Department of Justice, so there's a very expansive team of experts working on this very diligently. Then it would be made transparently through the normal Governor in Council process. That involves a lot of consultation. We need to cost things out. There are a lot of requirements in making these regulations, but we have gathered a lot of expertise.

Mr. Robert Kitchen: Are there processes in place to ensure that these people who are making these regulations are doing it based on the science, as opposed to doing it on personal beliefs or personal trends? What steps are in place to ensure that doesn't happen?

Dr. Supriya Sharma (Chief Medical Adviser and Senior Medical Adviser, Health Products and Food Branch, Department of Health): Thank you, Mr. Chair.

Excuse my voice. I'm at the tail end of a cold. I'm COVID-negative times five, including this morning, just to let you know.

Absolutely, in terms of the regulation-making process, there are a number of checks and balances, and we've gone through this with a number of files. Whether it's Canada's food guide or front-of-package labelling, when we put forth the regulations, there has to be an entire regulatory impact assessment piece that outlines the science and the basis of the evidence that was used to come to the proposal. It includes all of the consultations that we've gone through. As Mr. Lee has said, it includes the impact on small businesses and a cost-benefit analysis, and then there's an entire consultation process whereby that moves forward.

What we've done for other files is publish all of the data and the evidence that we relied on to make those policy decisions, as well, to make sure that we're completely open and transparent.

Absolutely, whatever we do needs to be... All of the decisions are made and all of the regulations and policies are based on science and evidence.

Mr. Robert Kitchen: I appreciate that, but I have some concerns in the sense that... You mentioned Canada's food guide. I spent 35 years of practice teaching nutrition to patients, yet the food guide, all of a sudden—because somebody has decided that they want to swing one way based on their beliefs, not necessarily the complete science—has made that change. That's why I want to be certain that these steps are being done appropriately and that you're not getting somebody who, for lack of a better word, is a power horse at the top saying, “I'm going to push my agenda and I'm going to have the power to do it.”

What are the steps to make certain that this doesn't happen and that these regulations are appropriate for our future?

• (1120)

Dr. Supriya Sharma: Certainly, in terms of the development of policy, it's not one person at all who makes those decisions and puts forth those policies. Again, it's entire groups of scientists, experts in policy and legal experts who come together to bring forth that policy. That policy is then shared publicly for open discussion. We have discussions with stakeholders, as well, so that input can be inserted into the process. Even that input and then the response to that input is publicly available, open and transparent.

The idea is to make sure that the process and the development of both the policy and the regulations are open and transparent so that, as you said, it's not an opinion piece. It's based on science and evidence.

The Chair: Go ahead, Ms. Sidhu.

Ms. Sonia Sidhu (Brampton South, Lib.): [*Technical difficulty—Editor*] words of our legislative clerk that this process happens frequently, as Dr. Sharma just mentioned. The checks and balances of the regulations will be comprehensive, and the coming-into-force date allows us to make sure that there is the time necessary. The legislative clerk said that the process happens frequently. They told us.

The coming into force amendment is important, so that everything can be in order. It's right here.

The Chair: Are there any further interventions with respect to G-5?

Seeing none, shall amendment G-5 carry?

(Amendment agreed to)

The Chair: That was the only amendment proposed for clause 6, so the debate is now on clause 6 as amended.

Are there any interventions?

Go ahead, Mr. Jeneroux.

Mr. Matt Jeneroux: Thanks, Mr. Chair.

I didn't mean to derail the intent. I want the sponsor of the bill, who I know has been joining us each and every day, to know that the intent wasn't to stop the bill's coming into force. I just wanted to be clear that I think most private members' bills, at least in my experience—granted, it's good advice from the clerk and from the parliamentary secretary on this particular one—are....

We all hold them pretty dear in this place and we all want to make sure that they come into force at the time when the member brings them through the Senate, which is generally royal assent. That happens according to the work done on the member of Parliament's side, in a lot of ways, through the Senate.

Throwing it back to the government is where I had the concern. I'm comfortable that this won't slow down the process for the member, who I know is eager to see this, but we still have some concerns, obviously, with the bill.

Certainly, that wasn't the intent, and I want to make sure that she's aware that that wasn't the intent of my intervention.

The Chair: Thank you, Mr. Jeneroux. I see her nodding understandingly.

Are there any further interventions with respect to clause 6 as amended?

(Clause 6 as amended agreed to)

The Chair: That brings us to the short title.

Are there any submissions with respect to the short title of the bill?

Go ahead, Mr. van Koeverden.

• (1125)

Mr. Adam van Koeverden: I have a quick question just for clarification on the short title. In other words is that the preamble, or is that different?

The Chair: No. We'll get to the preamble after the short title.

Mr. Adam van Koeverden: I didn't want to miss it.

The Chair: Okay. Shall the short title carry?

Some hon. members: Agreed.

(On the preamble)

The Chair: That brings us to the preamble.

Colleagues, I want to offer a couple of comments here, because in connection with the preamble, there have been two amendments presented. One is G-6 and the other is CPC-5.

You need to know that only one of those two amendments can pass because they both relate to the same line. We're going to call G-6 first. If you really like CPC-5, you should defeat G-6. Otherwise, CPC-5 will be ruled out of order because of a line conflict. I want you to know this before we engage in debate on G-6. If G-6 is adopted, CPC-5 doesn't get considered.

With that, I would ask for the introduction of G-6 or a mover for G-6, please.

Go ahead, Mr. van Koeverden.

Mr. Adam van Koeverden: Thank you, Mr. Chair.

Now that we're on the preamble, which is not the same as the short title, we are proposing that it be amended by replacing line 49 on page 2 with the following:

And whereas persons who are between 13 and 17 years of age

We're just changing the upper limit in the last paragraph of the preamble from "16 years of age" to "17 years of age", which is needed to align with the proposed amendment to clause 4 to change the upper age limit of the persons to whom new section 7.3 would apply.

The Chair: Thank you, Mr. van Koeverden.

The amendment is in order. The debate, then, is on G-6. Are there any submissions?

I have Ms. Goodridge, please.

Mrs. Laila Goodridge: Thank you, Mr. Chair. I really appreciate your clarifying at the onset of this the process which amendments would be put in and out of order based on a vote on this. I think that's very good practice, and I just wanted to thank you profusely for that because it's very helpful.

From my perspective at least, Conservatives have been very clear that the changing of the age range is concerning, and that's part of why our amendment removed that piece to allow a little bit more flexibility. I really do think that, in the absence of having heard from witnesses on this specific bill who were outside of government, we really, truly do not know if advertising to 17-year-olds and advertising to 18-year-olds are different or the same. We don't know what this is going to mean, and I think that is problematic and could potentially lead to unintended consequences in terms of the application of this bill.

I want to reiterate that I don't think anybody wants to see children being manipulated in a way that is counter.... We want to see healthy kids. Everyone from every political party wants to see healthy kids. We want to see children who are active and healthy, and this is part of the concern and part of the challenge that we've had from the very onset with this particular piece of legislation and not hearing from some of the stakeholder witnesses.

I understand that the government will say that we heard from witnesses the last time a bill similar to this came forward, but that's not the same as hearing from witnesses, because, if at some point in the future, this piece of legislation were to be challenged in a court, the judges would look at the testimony from all of the conversations we had in all of the committee meetings to see the intent behind this. That is the process judges typically follow. I find that kind of cool. It means that some of these meetings where we talk about the intent matter more than just whether it's a good or bad bill.

I say that because we truly do not understand what the implication of this change could be, because we haven't heard from witnesses. I think that opens us up to a potential court challenge at some future point in time because we don't have the full intent, because we don't have all of the witnesses able to tell us in their words what their feelings are.

I think that serves as a detriment to the longevity of this bill, and I believe that it would be valuable for committee members to vote against this so that we can vote in favour of the Conservative amendment.

Thank you, Mr. Chair.

• (1130)

The Chair: Thank you, Ms. Goodridge.

Are there any further interventions with respect to amendment G-6?

Seeing none, shall amendment G-6 carry?

(Amendment agreed to)

The Chair: G-6 is carried; therefore, the question on CPC-5 cannot be put.

There are no further amendments proposed for the preamble, so the debate is on the preamble as amended. Are there any interventions with respect to the preamble as amended?

Seeing none, shall the preamble as amended carry?

Mrs. Laila Goodridge: Can I get a recorded vote on that?

The Chair: Mr. Clerk, could you please conduct a recorded division on the preamble as amended?

(Preamble as amended agreed to: yeas 7; nays 4)

The Chair: The preamble as amended is carried. That brings us to the title.

Is there any intervention with respect to the title?

Seeing none, shall the title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

Colleagues, that brings us to the conclusion of the clause-by-clause consideration of Bill C-252.

Ms. Lattanzio, congratulations on your work in this regard.

To the officials, Dr. Sharma and Mr. Lee, thank you so much for your patience and professionalism in helping us through this process, and the same to the legislative clerks, Mr. Pagé and Mr. Vaive, for their technical advice.

Colleagues, I propose to suspend for five to 10 minutes in order for us to move in camera for committee business. The meeting is suspended.

[Proceedings continue in camera]

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