



CITY OF HAMILTON
PUBLIC HEALTH SERVICES
Office of the Medical Officer of Health
and
HEALTHY AND SAFE COMMUNITIES DEPARTMENT
Recreation Division

TO:	Mayor and Members Board of Health
COMMITTEE DATE:	March 19, 2018
SUBJECT/REPORT NO:	Feasibility of Peanut Restrictions in City Facilities (BOH16024(a)/HSC18012) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ninh Tran (905) 546-2424, Ext. 7113 Dawn Walton (905) 546-2424, Ext. 4755
SUBMITTED BY & SIGNATURES:	Ninh Tran, MD, MSc, CCFP, FRCPC Associate Medical Officer of Health, Public Health Services Office of the Medical Officer of Health Healthy and Safe Communities Department Chris Herstek Director, Recreation Division Healthy and Safe Communities Department

RECOMMENDATION

- (a) That signage indicating common allergens (eg. nuts, dairy) that are contained in the food products available at concessions be posted to educate and assist with food purchase decision making for clientele;
- (b) That the City of Hamilton continue to accommodate individuals based on self-identification; and,

- (c) That the item respecting the Pilot-Project to Eliminate Sales of Products with Peanuts or Tree Nuts in four City of Hamilton Facilities be removed from the Outstanding Business List.

EXECUTIVE SUMMARY

This report and recommendation are in response to the Board of Health (BOH) motion dated June 13, 2016:

- (a) That staff be directed to **implement a one-year pilot project** within four City of Hamilton Facilities (locations to be determined) to evaluate the revenue impacts and contractual obligations of substituting current peanut and nut-containing products with those that are free of peanuts or tree nuts;
- (b) That a **report be presented** to the Board of Health at the conclusion of the one-year pilot project

The Recreation Division, Food Service Unit conducted a peanut restriction pilot within two arena concession locations and three vending machine locations. The one year pilot was conducted between February 1, 2017 and January 31, 2018.

Food service locations were selected for the pilot based on geographic location and sales volumes. Valley Park Recreation Complex concession and vending, Carlisle Arena concession and vending, as well as Sir Allan MacNab Recreation Centre vending were included in the pilot for a total of five sites at three facilities.

During the pilot, there was an estimated average 20% loss of over the counter sales. This combined with the inability to offer healthier bars containing nuts could impact the Food Service unit by \$11, 500 annually and limit commission potential from vending by restricting product offerings across the operation. Additionally, on three identified occasions food service staff was notified of machines that were non-compliant. Vending operations are currently contracted to multiple third party vendors. Monitoring vending operations would be a challenge with the only recourse being vendor performance reporting and eventual termination of contract when requirements are made clear as part of the procurement process. Finally, in a climate where healthy alternatives and caloric awareness are becoming priorities, the banning of nut products reduces the availability of alternative product offerings. Nut products are one of the many identified anaphylaxis allergens identified by recreation users. Given that the Recreation Division has a comprehensive epi-pen response protocol and accommodation policy in place for participants with severe allergies, the focus on allergens in the recreation setting should be education and awareness rather than banning of products and creating a false sense of security in a public use facility.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications associated with Report BOH16024(a).

Staffing: There are no staffing implications associated with Report BOH16024(a).

Legal: There are no legal implications associated with Report BOH16024(a).

HISTORICAL BACKGROUND

On November 25, 2015, Council directed staff to:

- a) Report to the Board of Health respecting a study of the impact of food allergies on publicly owned facilities in the City of Hamilton; and,
- b) That staff consult with Dr. Doug Mack, Anaphylaxis Section Head, Canadian Society of Allergy and Clinical Immunology, respecting peanut-free City owned facilities and to report back to the Board of Health.

On June 13, 2016, PHS provided an information report on the Feasibility of Peanut Restrictions in City Facilities (BOH16024). At this meeting, the Board of Health provided the following directions:

- (a) That staff be directed to **implement a one-year pilot project** within four City of Hamilton Facilities (locations to be determined) to evaluate the revenue impacts and contractual obligations of substituting current peanut and nut-containing products with those that are free of peanuts or tree nuts;
- (b) That a **report be presented** to the Board of Health at the conclusion of the one-year pilot project.

The Recreation Division, Food Service Unit conducted a peanut restriction pilot within two arena concession locations and three vending machine locations. The one year pilot was conducted between February 1, 2017 and January 31, 2018.

Subsequent to the June 13, 2016 BOH, a citizen applied to the Human Rights Tribunal of Ontario to have the City of Hamilton ban/remove peanut products from its facilities. The City responded to the application. Mediation was unsuccessful and so a two-day hearing was held before the Human Rights Tribunal in the summer of 2017, with written closing submissions being exchanged and filed by the parties in September 2017. On February 16, 2018, the Human Rights Tribunal of Ontario dismissed the application to have the City of Hamilton ban/remove peanut products from its facilities.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

There are no policy implications associated with Report BOH16024(a).

RELEVANT CONSULTATION

Legal Services Division was consulted and supports the recommendations made in this report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Description of the pilot:

Food service locations were selected for the pilot based on geographic location and sales volumes. Facilities with average sales were chosen in order to ensure a comparable sample size based on volume while mitigating potential losses. Locations were geographically diverse to ensure a broader market reach. Valley Park Recreation Complex concession and vending, Carlisle Arena concession and vending as well as Sir Allan MacNab Recreation Centre vending were included in the pilot for a total of five sites at three facilities.

The scope of the pilot was to restrict the sale of product over a one-year period in Recreation Food Services concession and vending operations. The product restriction was limited to chocolate and energy/protein bar sales which identified peanut/tree nuts in the ingredient list. Items removed from the product line up included four out of five types of energy/protein bar with no substitution as well as five out of 10 types of chocolate bars with five available substitutions.

In order to minimize unsolicited customer feedback, based on the removal of nut products and ensure feedback based on consumer recognition of product availability, the restriction of nut products at locations was not advertised or promoted during the pilot. While the pilot identified that specific bar types not offered per the restriction were requested at locations, these requests were gathered informally and not significant enough in number to identify as a “pilot” issue. Product requests were not limited to bars containing nuts nor were product requests limited to occurring only at pilot sites. In the majority of scenarios the availability of a specific bar type did not dissuade consumers from making a purchase. The exception to this were consumers requesting energy/protein bars for which no product substitution was available; this resulted more frequently in a loss of sale.

Chocolate bars sales during the pilot were compared with the chocolate bar sales for the same period a year previous; Carlisle concession sold 322 (32%) fewer bars, Valley Park concession sold 79 (8%) fewer bars, Carlisle vending commissions increased sales by \$68 (18%), Sir Allan MacNab and Valley Park vending operate on an annual flat rate commission and were not impacted during this period.

In terms of results, while concession operations recognized a decrease in chocolate bar sales these results cannot be isolated to the peanut restriction as other variables

contribute to this outcome including concession operating hours, scheduled ice program, program attendance, staff availability, access to software to document sales and customer service. It was evident that where a viable nut free product was either not available or limited, sales were impacted, the example being energy/protein bar sales where a substitute bar was not offered. Energy/protein bar sales accounted for 15% of overall bar sales in 2016; a total of \$6885.

Vending commissions recognized a slight increase during the pilot however the city does not receive product specific velocity reports and cannot confirm whether the increase was specific to chocolate bars or other snack product sales. Additionally, Food Service staff identified a risk with vending operations during the pilot period. Vending operations are currently contracted to multiple third party vendors. Vendors were provided instruction to remove peanut product from identified machines during the course of the pilot. On three identified occasions food service staff were notified of machines that were non-compliant. Vendors were contacted to remedy however, it is unclear how long nut product was available in identified machines and whether these incidents were more frequent and not reported. Monitoring vending operations remains a challenge with the only recourse being vendor performance reporting and eventual termination of contract when requirements are made clear as part of the procurement process.

An average 20% loss of over the counter sales combined with the inability to offer healthier bars containing nuts could impact the Food Service unit by \$11, 500 annually and limit commission potential from vending by restricting product offerings across the operation. Additionally, in a climate where healthy alternatives and caloric awareness are becoming priorities, the banning of nut products reduces the availability of alternative product offerings. Nut products are one of the many identified anaphylaxis allergens identified by recreation users. Given that the Recreation Division has a comprehensive epi-pen response protocol and accommodation policy in place for participants with severe allergies, the focus on allergens in the recreation setting should be education and awareness rather than banning of products and creating a false sense of security in a public use facility.

ALTERNATIVES FOR CONSIDERATION

The Board of Health could choose complete elimination of peanuts at all City owned recreation facilities.

As discussed in the information report on the Feasibility of Peanut Restrictions in City Facilities (BOH16024), this is not recommended given the lack of evidence regarding the effectiveness of a ban/restriction, the difficulty in monitoring and enforcing a ban/restriction, the impossibility of ensuring the complete elimination of the product, the potential risk of liability if a ban/restriction is not effectively implemented, the potential for creating a false sense of security for persons with peanut allergies, and the fact it

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could lead to similar requests for bans/restrictions of other food products. Focus should be on education, access to epi-pen and accommodation where identified at specific locations.

Financial Implications:

Based on an average 20% loss of over the counter sales combined with the inability to offer healthier bars containing nuts could impact the Food Service unit by \$11, 500 annually and limit commission potential from vending by restricting product offerings across the operation.

Staffing Implications:

There are no staffing implications associated with the alternative option within Report BOH16024(a).

Legal and Policy Implications:

There is the potential risk of liability if a ban/restriction is not effectively implemented, the potential for creating a false sense of security for persons with peanut allergies, and the fact it could lead to similar requests for bans/restrictions of other food products.

Pros: None identified.

Cons: Financial costs and legal implications as above.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

Not Applicable.