

# Health law may protect Ottawa

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The proposed "modernization" of the Food and Drugs Act will prevent Canadians from suing Health Canada for negligence, even for flagrant failures like those that occurred during the tainted-blood scandal, a new report says.

Changes to the law will also greatly increase the likelihood that unsafe drugs and hazardous products make their way to market, and open the door to direct-to-consumer advertising, genetically modified foods and human cloning, the Canadian Health Coalition says in a scathing analysis that will be released today in Ottawa.

"The government and industry elites have made their choice: Economic growth and corporate profits are to trump the protection of citizens' health," said Mike McBane, principal author of the report. "The evidence indicates that the federal health and safety regulatory agencies have been captured by industry."

The Liberal government announced plans to revamp the Food and Drugs Act during the 2002 Speech from the Throne. At the time, it said that the legislation needed to be streamlined and modernized to keep pace with sweeping changes in technology and society. The government promised that health protection measures would be strengthened and lead to stricter enforcement through an approach called "smart regulation."

The plans have been fleshed out in a Health Canada document entitled Health and Safety First!, which states that one of the reasons the legislation needs major revision is that it has "too narrow a focus on safety." Plans for public consultation on the new law were also announced this summer.

"One of government's most important responsibilities is to ensure an effective and responsive health protection system is in place to protect citizens," Anne McLellan, the federal Minister of Health, said at the time. "Canadians have a right to expect that their food is safe to eat, that their drugs are effective and safe, that household products they use are safe, and that there are strong measures to protect them from new and re-emerging communicable diseases."

The Canadian Health Coalition agrees with those goals but argues that nothing of the sort will be achieved with the proposed legislative changes.

In its report, which the group says was written to decode the doublespeak in the Health Canada proposal, the health coalition argues that "'smart' regulation is market-friendly regulation designed to bring regulatory regimes in line with trade and investment policy. Instead of government regulation intervening in the market, the market will now intervene in government regulation."

One of the key goals of the new law, according to the report, is to limit the government's exposure to lawsuits. Currently, Health Canada is facing almost \$12-billion in legal claims for everything from tainted blood to faulty medical devices and there are predictions that new technologies such as cloning, reproductive technologies and genetic engineering could result in massive lawsuits.

In the report, the health coalition argues that the proposed legislative changes would amount to a profound legal and philosophical shift in Canada's approach to health protection, from a "duty of care" to a "risk management" approach.

According to the report, the new law would see the current approach in the Food and Drugs Act turned on its head.