

What We Heard Report

Regulating the Sale of Oleoresin Capsicum Spray Products

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Edmonton

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REGULATING THE SALE OF OLEORESIN CAPSICUM (OC) SPRAY PRODUCTS - PUBLIC ENGAGEMENT SUMMARY AND RESULTS

Project Overview

In February 2023, the Edmonton Police Service (EPS) brought forward a report to Community and Public Services Committee (EXT 01614) about possession, transportation, and sale of oleoresin capsicum (OC) spray products. EPS reported that OC spray products, also commonly known as 'bear spray', can be altered for quick and unsafe use, and that there is a lack of clear guidelines available to businesses related to the sale of OC spray products at the local level. Internal data collected by EPS showed that reported occurrences involving OC spray misuse have been trending upwards between 2015 - 2021. New data to the end of 2023 shows that these incidents have increased significantly since 2015, and have remained consistently high since 2020.

Administration worked with EPS between March 2023 - May 2024 to develop proposed amendments to the Business Licence Bylaw 20002 that would regulate the business activities surrounding the sale of OC spray products. In January 2024 a survey was created to ask retailers about their current practices for selling OC spray products and to get their thoughts on potential regulations. The engagement findings were used by Administration to refine and finalize proposed bylaw amendments for City Council.

What We Asked

To ensure clarity, OC spray was referred to as "bear spray" throughout this survey, as that is the most common, plain language term for these products.

Respondents were asked a few introductory questions:

- Which of the following best describes your store: Box store / department store; Hardware store; Camping supply / sporting goods store; Firearm/military store; Convenience store; Other (text box).
- Does your retail store sell bear spray?
- How long has your retail store been selling bear spray?
- Approximately how many cans of bear spray does your store sell each year?
- Respondents were then asked to specify all applicable business practices related to product storage and accessibility, purchaser's age, record-keeping, and customer education.

Retailers were then asked to rate how each of the following proposed regulations would impact their business on a five-point scale:

- The City is considering a regulation that would not allow the sale of bear spray to anyone under the age of 18. This would also require store employees who handle or sell bear spray to be 18 or over. Would your business be able to implement this proposed regulation?
- The City is considering a regulation that would require businesses to record each transaction for the sale of bear spray, including:
 - Serial number
 - Quantity sold
 - Buyer's full name, identification type and identification number
 - Name of the employee who sold the spray
 - Date and time of sale
 - Product name
 - Businesses would also be required to keep these records for 24 months. These records would need to be available to the Edmonton Police Service (EPS) upon request. Would your business be able to implement this proposed regulation?
- The City is considering a regulation that would require businesses to keep bear spray products secured and not directly accessible to the public. Customers would be required to ask for the product in order to purchase it. Would your business be able to implement this proposed regulation?
- The City is considering a regulation that would require businesses to have customers sign a 'Notice to Purchaser' when they are purchasing bear spray. The 'Notice to Purchaser' would include information about the product and when to use / when not to use it. The customer would be required to read and sign the notice. A sample of this notice would be available on the City's website for businesses to download and print at their convenience. Would your business be able to implement this proposed regulation?

After each question, respondents were also given an opportunity to explain their ranking or provide additional information.

Respondents that do not sell OC spray were not the target demographic for this survey, and were directed to the last question of the survey: "Do you have anything else you would like to share with us regarding the sale of bear spray at your business?"

What We Heard From OC Spray Retailers

Administration received a total of 62 responses to the survey, including seven from retailers that sell OC spray. Most of the retailers that sell OC spray agreed with the proposed recommendations or suggested some slight alternatives. A couple of respondents either disagreed or responded that they neither agreed nor disagreed.

Key Themes Overall

The following themes were heard from retailers that sell OC spray.

Age Limitations

The majority of retailers agreed with the proposed regulation that would not allow the sale of OC spray to anyone under 18, with a few commenting that they already have this in place. One retailer mentioned that while they do not sell to people under 18, they do have staff under the age of 18 and it would be time consuming for them to implement a system where those employees would not be able to sell the product.

Transaction Recording

The responses from retailers about transaction recording were mixed, with a couple of retailers noting that they have most of these regulations in place, but there are a few challenges with some proposed regulations:

Serial Numbers on OC Spray Products

One retailer mentioned that their current manufacturer does not provide serial numbers on the individual cans of bear spray. Another retailer mentioned that they record the brand name and quantity sold, and that no other jurisdiction that they operate out of requires a serial number. However, it appears that Manitoba's legislated form requires a serial number.

Privacy Considerations

One retailer raised a concern about the recording of identification numbers and the privacy implications of having to record this sensitive personal information. They mentioned that similar concerns were raised by the Retail Council of Canada when Vancouver was considering this amendment to their bylaw and that Vancouver ultimately removed this from their proposed bylaw as a result. Another retailer mentioned that they believed a release of personal information would require a production order.

Employee Name

One retailer noted that no other jurisdiction requires them to record the name of the employee who sold the OC spray product.

Secure and Inaccessible Products

Five out of seven retailers commented that they already secure their OC spray products. No concerns were raised about this.

Notice to Purchaser

Four retailers commented that they already have a form in place, which is sometimes provided by the manufacturer. A few mentioned that they do not want a separate form from the City and would like to continue using the same form.

Time and Effort

One retailer responded to all questions that they do not think these regulations will do anything, and that it will just cost them time and money to implement new regulations. This retailer also suggested that the City should “ please focus on our homeless situation and leave the bags and merchandise to business owners.”

What We Heard From Other Retailers

Retailers that did not sell bear spray were redirected to the end of the survey to an open-ended question asking if they had any other thoughts on OC spray. There were many responses to this question, which further support the proposed amendments to Bylaw 20002.

Many of the responses indicated that they have seen children under 18 using bear spray in shopping centres, libraries and other retail spaces. A few indicated that it has been used against their staff more than once, or as a weapon against other people, with many bystanders being impacted because of the range and potency of OC spray. A few retailers mentioned their staff are becoming fearful of coming to work, and that some people are avoiding Kingsway Mall because of the frequency of incidents.

Some of the comments have been paraphrased below:

- “I work at a library. Kids under 18 have bear sprayed each other on three separate occasions in the past month. The library was full of families”
- “Children have been buying mace and spraying random people going into malls. It’s very dangerous.”
- “I work at a library in Edmonton and our clients have been negatively impacted by the use of bear spray in the space. Staff are becoming nervous to come to work because of its prevalence around Northeast Edmonton”
- “I am the manager of a shopping centre and we have nothing but issues with children purchasing bear spray and using it in the shopping centre, to either cause intentional harm or just to see what it would do. It should not be sold to children or anyone under the age of 18 as they are showing they are not responsible to have it.”
- “My store has had two incidents where bear spray was used on my staff, it was used to allow the person to steal from my store. Bear spray in these menacing peoples hands causes dangerous situations in our retail space.”

- “Kingsway Mall is near our business and we have heard several incidents of bear spray being used uncontrollably and as a weapon in the mall.”
- “Bear spray is often used in crimes against retailers and should be better regulated when sold.”
- “Bear spray has been used in assaults against my staff, this product needs to be better regulated”

Additionally, there were a few comments that do not support the regulation of bear spray. Two people suggested the City did not have a role in restricting such items, and that it won’t change the accessibility of it. Another person suggested that they needed OC spray for their own safety and that it should not be restricted for that reason.

What We Did

The analysis included a review of the survey data that was collected, capturing what the business agreed or disagreed with and key themes that formed the next phase of decision making. The decision to move forward with proposed recommendations to City Council was made by Administration and EPS through a working group that was established to steer the project.

Input we are using

<i>Original proposed requirement</i>	<i>Amended requirement following input</i>
Transaction recording requirements: <ul style="list-style-type: none"> • Serial number • Quantity sold • Buyer’s full name • Identification type and identification number • Name of the employee who sold the spray • Date and time of sale • Product name 	<ul style="list-style-type: none"> • If a serial number is not available the retailer can record any identifying markings, or other numbers that might be on the can. • ID numbers should be recorded, but if the retailer is not able to properly secure this data, they can alternatively record the date of birth of the buyer.
Retailers must have the buyer complete a Notice to Purchaser.	<ul style="list-style-type: none"> • Businesses must provide the buyer with City-approved messaging on appropriate and inappropriate uses of OC spray. This ensures that buyers are informed about responsible OC spray use, and understand that they are

	<p>using a product that is dangerous and could cause significant harm if used incorrectly.</p> <ul style="list-style-type: none"> • Businesses will have the option of incorporating the approved text into their existing documentation, or providing buyers with a complete information guide supplied by the City.
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Input from retailers that we are not using

- Similar to the sale of liquor or tobacco, employees under 18 should not be allowed to sell OC spray if the purchase by a person under 18 is also not allowed. Given that youth were identified many times as the offender in the survey open text, this is a primary concern.
- The name of the employee should be recorded to ensure that retailers are responsible and compliant with the regulations. If there is concern about a name being recorded, an employee ID number that can be tied back to the employee could be recorded instead.

Public Engagement Approach

How We Engaged

Administration reached out to approximately 12 retailers by phone between January 8 - 19, 2024 to gather email addresses prior to the survey distribution. Administration identified these retailers as potential sellers of OC spray, including department stores, camping, outdoor, firearm, and military supply stores. They were selected based on a search of their store websites for OC spray, and google searches to find stores that are selling OC spray. Two retailers clarified that OC spray was not something they sold and they were not interested in responding to the survey. On January 22, 2024 Administration sent an email with the survey link to approximately 10 retailers. A follow-up email was sent on January 30, 2024 as a friendly reminder of the survey's deadline. An email was also sent to the Business Improvement Areas asking them to distribute the survey link if they knew of any retailers it might be relevant for. Two additional emails were sent to corporate offices for larger chain stores that have multiple locations and different brands across Edmonton.

The survey was also available on the City of Edmonton website; however, because it was a targeted engagement there was no advertisement of the survey. The survey responses were anonymous and the objective was to understand retailers' current business practices with respect to the sale of

OC spray and how they would be affected by the proposed regulations. The survey was open for two weeks between January 22, 2024 and February 5, 2024.



Who Was Engaged

The survey received 62 responses and one retailer provided additional information over email. Of the 62 participants that responded, 16% were camping supply / sporting goods stores, 11% were box /department stores, 8% convenience stores, 3% firearm / military equipment stores and the remaining 76% categorized themselves as 'other'. Seven of the 62 respondents currently sell OC spray.

What Happens Next?

Proposed amendments to Bylaw 20002 will be presented to Community and Public Services Committee in June 2024. If a recommendation is made, they will proceed to City Council for approval in early July 2024. Implementation would begin shortly after, if approved.