

POLICY RECOMMENDATION

TITLE/SUBJECT: Proposed Environmental Enforcement Statute Law Act (Bill 133)

COMMITTEE: Business Development Committee

ACTION REQUIRED: Letter generally supporting the letters of the "Industry Coalition on Bill 133" dated Nov. 15 & Dec. ¼, respectively.

DIRECTED TO: Honourable Leona Dombrowsky, Minister of the Environment, with copy to the Premier, as well as all local MPPs.

BACKGROUND OF ISSUE: Refer to the Draft OCC Background Briefing Document dated November, 2004, as well as the Coalition briefing Presentation dated December, 2004 (both attached).

In summary though, the Ontario Chamber & the Coalition are concerned that the proposed Bill, as presently written, raises very serious legal issues, some of which have implications under the Canadian Charter of Rights and Freedoms, including;

1. Carries the potential for large penalties without the apparent right to due process and limits (or eliminates) recourse to fair and impartial hearings before the courts;
2. Introduces "reverse onus" of proof of innocence; and
3. Eliminates "due diligence" as a defense and introduces "absolute liability" for companies, officers and individuals.

The latter, in particular, appears to be precedent setting, highly punitive, and inconsistent with current best practices.

RECOMMENDATIONS: The Hamilton Chamber of Commerce recommends that the Province Redraft Bill 133, or as an alternative, refer this Bill to Committee allowing for a full, effective and open consultation with all stakeholders, including the Ontario Chamber of Commerce, and other representatives of business, to ensure that shared goals are met, including, but not limited to that it is in:

1. Full compliance with the Canadian Charter of Rights and Freedoms; and
2. The full implications of the proposed legislation are comprehensively understood; including, but again not restricted to, the implications to both environmental and economic sustainability of the province.