



COUNCIL REPORT

Report Date: March 14, 2023
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Meeting Date: March 28, 2023
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TO: Vancouver City Council
FROM: General Manager of Development, Buildings & Licencing
SUBJECT: Regulating the Sale of Bear Spray

Recommendations

- A. THAT Council approve, in principle, amendments to the License By-law to regulate the sale and display of bear spray in Vancouver as described in this report and as generally set out in Appendix A;

FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council, a by-law to amend the License By-law, set out in Appendix A, to be effective immediately upon enactment.

- B. THAT, subject to Council's approval of Recommendation A, Council approve, in principle, amendments to the Ticket Offences By-law regarding the sale and display of bear spray, as described in this report and as generally set out in Appendix B;

FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council a by-law to amend the Ticket Offences By-law, set out in Appendix B, to be effective immediately upon enactment.

- C. THAT Council request the Mayor to send a letter on behalf of Council to the Province to advocate for stricter provincial regulations on the sale of bear spray as outlined in this report.

Purpose and Executive Summary

This report seeks Council's approval to regulate the sale and display of bear spray in Vancouver due to public safety concerns raised by Vancouver Police Department (VPD). From 2018 to 2022, there were approximately 3,000 violent offences related to bear spray reported to VPD with the total number of offences involving youth increasing each year for that period.

Staff recommend amendments to the License By-law to:

- Prohibit the sale of bear spray to anyone under the age of 19 and anyone who does not provide identification;
- Require retailers to keep bear spray in a locked or inaccessible area from the public; and
- Require retailers to record details of each sale, keep the record for a period of 12 months and make it available upon request to the Chief Licence Inspector to ensure by-law compliance.

Staff also recommend amendments to the Ticket Offences By-law to make it a ticket offence with a stipulated fine of \$1,000 for noncompliance with any of the above requirements.

Regulating the sale of bear spray is a proactive measure to increase public safety and potentially reduce the number of violent offences involving these products in Vancouver, particularly by youth. The City has previously encountered similar challenges to public safety and successfully implemented regulatory measures that have produced meaningful outcomes (i.e. prohibiting the sale and use of fireworks and exploding animal deterrents). Staff did not consider an outright ban on the sale of bear spray to ensure adults who require bear spray for its intended usage still have access to it at businesses in Vancouver. The recommendations proposed by staff are aimed at striking a balance between protecting public safety while supporting businesses.

To further enhance regulations for bear spray, staff recommend the Mayor on behalf of Council send a letter to the Minister of Environment & Climate Change Strategy requesting a review of and amendment to the *Integrated Pest Management (IPM) Act and Regulation* to designate bear spray as a Restricted Pesticide. This designation would require sellers to obtain a provincial vendor licence subject to record and reporting requirements under provincial oversight and enforcement.

Council Authority/Previous Decisions

Section 272 of the Vancouver Charter gives Council the authority to establish terms and conditions of a licence, by by-law.

City Manager's Comments

The City Manager concurs with the foregoing recommendations.

Context and Background

Bear spray is a type of pepper spray and is considered a pesticide as it contains capsaicin in a percentage of 1-2%. Health Canada's Pest Management Regulatory Agency governs the *Pest Control Products Act (PCP Act) and Regulations* and is responsible for evaluating and registering pesticides before they are imported, stored, manufactured, sold or used in Canada.

Provinces and territories may further regulate registered pesticides including their sale and can issue vendor licences subject to terms and conditions. Pesticide laws vary among provinces. In BC, the Ministry of Environment and Climate Change Strategy administers the *Integrated Pest Management (IPM) Act and Regulation*, the primary regulatory tools governing pesticides in the province. Under the IPM Regulation, there are five classes of pesticides, four of which require a vendor licence to sell the products, the remaining excluded class does not. As bear spray is classified as excluded, there are no provincial restrictions on its sale and it is exempt from terms and conditions imposed on pesticides where a vendor licence is required.

At the local level, municipalities can enact by-laws to set conditions on the sale and use of pesticides. The City's Health By-law prohibits use of certain pesticides, mainly lawn, turf and garden products, but does not regulate the use of bear spray. In absence of provincial regulations on the sale of bear spray, three Lower Mainland municipalities have introduced by-laws regulating the sale following public safety concerns.

Surrey, Chilliwack and Port Coquitlam introduced regulations on the sale of bear spray in 1998, 2021 and 2022 respectively to prohibit its sale to minors. Surrey and Chilliwack restrict the sale of bear spray to outdoor/sporting good stores and have record and reporting requirements. Like Chilliwack, Port Coquitlam requires retailers to display bear spray in a secure space either locked or otherwise inaccessible to the public.

Data from Chilliwack RCMP indicates a 49 per cent decrease in the number of case files for incidents involving bear spray in 2021 compared to the previous year. Recent police data from Surrey indicates that their municipality experiences far fewer incidents involving bear spray annually compared to Vancouver, with 158 less violent offences in 2022.

While possession or sale of bear spray, including to a minor is not illegal, it becomes a public safety issue and can become a criminal offence when used for purposes other than its intended use. In 2022, VPD approached the Chief Licence Inspector about public safety issues surrounding bear spray use in Vancouver, particularly by youth. Staff at VPD requested the City regulate the sale of bear spray similar to what Surrey, Chilliwack and Port Coquitlam have in place.

Annual VPD data on assaults, robberies and threats shown in Appendix C indicate that the total number of violent offences involving bear spray increased substantially since 2018, with significant increases from 2020 to 2022. Offences related to bear spray involving youth increased year-over-year during this time and more than doubled (121%) in 2022 compared to 2018. Youth numbers continued to rise in 2022 increasing by 15 per cent compared to the previous year. In comparison, bear spray offences involving adults spiked in 2020 and have decreased since that time.

Discussion

Since 2020, after the onset of the COVID-19 pandemic Vancouver saw an overall increase in violent crimes. VPD crime data for 2021 compared to the three-year average prior to the pandemic (2017-2019), shows violent crimes increased by 7.1 per cent.¹ The impacts of the pandemic may have contributed to an increase in the number of violent offences involving bear spray in 2020 and 2021, particularly among youth. From March 14, 2020 to May 15, 2021, BC secondary-school students lost an average of 12-weeks of in-person learning due to the pandemic.² The British Columbia Centre for Disease Control identifies concerns associated with decreased 'school connectedness' resulting from school closures which can lead to a number of major negative impacts on their well-being including higher rates of violence and participation in more risk-taking behaviours.³

Proposed Regulations on the sale of bear spray

¹ <https://vancouver.ca/files/cov/2022-06-30-council-memo-prioritizing-public-safety-actions.pdf>

² https://scholars.wlu.ca/cgi/viewcontent.cgi?article=1001&context=laso_faculty

³ http://www.bccdc.ca/Health-Info-Site/Documents/Public_health_COVID-19_reports/Impact_School_Closures_COVID-19.pdf

Staff considered options for regulating the retail sale and display of bear spray with the following policy objectives in mind:

1. Enhance public safety;
2. Allow access to bear spray to persons who use it for its intended purpose while prohibiting youth access; and
3. Support local businesses by minimizing financial impact and administrative tasks for retailers.

While the City can prohibit the sale of bear spray to all, it was determined that this approach would unnecessarily penalize those who purchase and use bear spray for its intended purpose. Further, the concerns raised by police are largely in relation to youth access and violent offences involving youth and bear spray.

To that end, staff recommend prohibiting the sale of bear spray to anyone under the age of 19 years of age and requiring retailers to obtain and record identification to verify the purchaser's age.

If the proposed by-law amendments are approved by Council, retailers that sell bear spray will be required to gather the following information at the time of sale, retain the record for up to 12 months and make all records available upon request to the Chief Licence Inspector:

- Date and time of sale;
- Product name and amount of bear spray sold;
- Purchaser's name and address; and
- Type of identification provided by the purchaser and the identification number.

Requiring retailers to obtain identification from the purchaser may also serve as a deterrent against those wanting to purchase bear spray and use it for purposes other than its intended use as their identification details will be collected.

Consultation with businesses and other stakeholders

In January and February 2023, staff consulted with a range of stakeholders on the proposed regulations to gather feedback. Stakeholders included Vancouver businesses that sell bear spray, industries whose members use these products, North Shore Search and Rescue, WildSafe BC and the BC Conservation Officer Service.

The majority of businesses consulted were supportive of the recommendations. Many indicated that there would be minimal impact to their business as they already have processes in place similar to what is being proposed such as asking for identification, recording the sale and keeping bear spray locked or stored in areas not accessible to the public.

The BC Conservation Officer Service recommends bear spray as the number one animal deterrent that people should carry when out in the wilderness as it is shown to be effective when used for bears and other mammals to prevent attacks. For that reason, they were supportive of the recommendation to only prohibit the product's sale to anyone under the age of 19 years old. Industry groups whose members use bear spray when out in the field were also supportive of this approach.

Ticket Offences By-Law Amendment

Staff recommend an amendment to the Ticket Offences By-law to include stipulated fines of \$1,000 for violations of the new regulations. The proposed fine amount aligns with the amount set for similar offences in the Ticket Offences By-law that pose risks to public safety (i.e. selling fireworks and exploding animal deterrents, fighting in public) as well as the fine amount set by local municipalities for similar regulations.

Advocacy

While introducing municipal regulations on the sale of bear spray may produce meaningful outcomes to protect public safety, bear spray can still be bought online and from neighbouring jurisdictions. Municipal regulations could be strengthened by the Province regulating bear spray more robustly.

As a result, staff propose the following actions:

- 1. The Mayor send a letter on behalf of Council to the Minister of Environment and Climate Change Strategy to advocate for a province-wide approach to regulate the sale of bear spray:**

In BC, a gap exists in regulating the sale of bear spray at the provincial level. Bear spray is considered an Excluded Pesticide by the Province, a vendor licence is not required to sell these products, and therefore the requirements associated with a vendor licence (such as record keeping and reporting) are not required under provincial legislation. Amending the *Integrated Pest Management (IPM) Act and Regulation* to designate bear spray as a Restricted Pesticide would require sellers to obtain a vendor licence subject to requirements under provincial oversight and enforcement. In Ontario and Manitoba, a vendor licence is required to sell bear spray and the licence is subject to various requirements.

- 2. VPD to advocate to other police forces for a provincial approach**

Given bear spray is available to purchase online and in neighbouring cities, VPD may consider leading an effort to garner support from police forces in other jurisdictions to advocate for a provincial approach (similar to what Manitoba and Ontario have in place). This may include advocacy to the Province to review and amend its *Integrated Pest Management (IPM) Act and Regulation* to designate bear spray as a Restricted Pesticide so that sellers would need to obtain a vendors licence subject to record and reporting requirements.

Financial Implications

There are no financial implications associated with this report's recommendations.

Legal Implications

There are no legal implications associated with this report's recommendations.

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APPENDIX A**A By-law to amend License By-law No. 4450 regarding the sale of bear spray**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of License By-law No. 4450.
2. In section 2, Council adds the following new definitions in the correct alphabetical order:
 - (a) ““Authorized Identification” means any one or more of the following, provided it is valid and is integrated with a photograph of the bearer:
 - (1) driver’s licence;
 - (2) identity card issued by a Canadian province or territory;
 - (3) Indigenous status card;
 - (3) passport;
 - (4) any other form of provincial or federal identification.”; and
 - (b) ““Bear Spray” means a device containing capsaicin and other related capsaicinoids that is designed and labeled for use as a deterrent from attacks by bears or other animals.”.
3. Council adds a new section 23.4 in the correct numerical order as follows:

“

BEAR SPRAY

- 23.4 (1) A person carrying on a business that sells or offers to sell bear spray must not:
- (a) sell bear spray to a person under 19 years of age; and
 - (b) sell bear spray to a person who does not provide authorized identification verifying that they are 19 years of age or older.
- (2) Every person carrying on a business that sells or offers to sell bear spray must:
- (a) keep the bear spray in a locked area, or in an area otherwise inaccessible to the public;
 - (b) make a record of each sale of bear spray, including the date and time of sale, the product name and quantity sold, the name and address of the purchaser, the type of authorized identification provided by the purchaser, and the identification number on the identification provided;
 - (c) keep the record referred to in subsection (b) for a period of 12 months from the date of sale; and

APPENDIX C**VPD data on violent offences involving bear spray in Vancouver**

Table 1: Annual number of violent offences involving bear spray and youth (under 19):

	2018	2019	2020	2021	2022
Assault	34	51	56	72	80
Robbery	12	13	18	15	22
Threat	6	6	6	13	13
Total	52	70	80	100	115

Table 2: Annual number of violent offences involving bear spray and adults

	2018	2019	2020	2021	2022
Assault	280	403	505	468	440
Robbery	62	74	86	73	92
Threat	35	50	59	58	74
Total	377	527	650	599	606

Table 3: Annual number of violent offences involving bear sprays (youth and adults)

	2018	2019	2020	2021	2022
Youth	52	70	80	100	115
Adult	377	527	650	599	606
Total	429	597	730	699	721