



# OUR HORIZON

---

Memorandum

March 27, 2021

**Re: Impact of *CCLA v. Attorney General of Ontario*, 2020 ONSC 4838 (i.e. Ontario's anti-carbon tax gas pump stickers case) on climate change and air pollution health warnings**

On September 4, 2020, the Ontario Superior Court of Justice released [its decision](#) on the constitutionality of the *Federal Carbon Tax Transparency Act*, more commonly known as Premier Doug Ford's anti-carbon tax gas pump stickers. The court found that several provisions of the statute violated freedom of expression protections found in section 2(b) of the *Canadian Charter of Rights and Freedom* and could not be justified under section 1 of the Charter. The legislation was struck down and gasoline retailers were no longer obligated to display the stickers on their pumps.

Since that time, I have occasionally been asked whether this decision would impact the legal analysis in my report, [Face the Change: Climate Change & Air Pollution Warning Labels on Gas Pumps](#). In short, the answer is no.

In this decision, the court reviewed evidence provided by the CCLA and found that the purpose of the legislation was political and partisan in nature. It was an attempt by the provincial government of Ontario to use its legislative powers to influence the outcome of the federal election. As Ontario's Energy Minister Rickford put it clearly in the legislature, "We're going to stick it to the Liberals." In his reasoning, Justice Morgan cites a Supreme Court of Canada [decision](#) that makes it clear that "the use of legislative/executive power for partisan purposes amounts to 'an unjustified attempt to [legislate/regulate] to benefit the governing party.'" He found that the stickers were "an unconstitutional attempt to do just that."

The labels advocated for by Our Horizon are not motivated by partisan or political gain. They are designed to disclose the climate and air pollution impacts of gasoline. Our Horizon's health disclosures are more akin to the warnings found on tobacco labels, which have been upheld by the Supreme Court of Canada. For more legal analysis, please read my report [Face the Change: Climate Change & Air Pollution Warning Labels on Gas Pumps](#).

Sincerely,

Robert Shirkey, BBA, LLB  
Executive Director, Our Horizon