



Province of Alberta

TOBACCO AND SMOKING REDUCTION AMENDMENT ACT, 2020

Statutes of Alberta, 2020
Chapter 17

Assented to June 26, 2020

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Bill 19

TOBACCO AND SMOKING REDUCTION AMENDMENT ACT, 2020

Chapter 17

(Assented to June 26, 2020)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends SA 2005 cT-3.8

**1 The *Tobacco and Smoking Reduction Act* is amended by
this Act.**

**2 The title of the Act is repealed and the following is
substituted:**

TOBACCO, SMOKING AND VAPING REDUCTION ACT

3 Section 1 is amended

(a) by repealing clause (a) and substituting the following:

- (a) “advertise” means to use any commercial communication, through any media or other means, that is intended to have or is likely to have the effect of
 - (i) creating an awareness of or association with a tobacco product or vaping product, a brand of tobacco product or vaping product or a manufacturer or seller of a tobacco product or vaping product, or
 - (ii) promoting the purchase or use of a tobacco product or vaping product or a brand of tobacco product or vaping product;

(b) by repealing clause (e.2) and substituting the following:

- (e.2) “promote” means to use any commercial act or practice that is intended to encourage or is likely to encourage the purchase or use of a tobacco product or vaping product, or a brand of tobacco product or vaping product, or to create an awareness of or association with a tobacco product or vaping product, a brand of tobacco product or vaping product or a manufacturer or seller of a tobacco product or vaping product;

(c) by repealing clause (h.1) and substituting the following:

- (h.1) “retailer” means a person engaged in a business that includes the sale of tobacco products or vaping products;

(d) by repealing clause (i) and substituting the following:

- (i) “smoke” means to smoke, hold or otherwise have control over a heated or lit tobacco product;

(e) by repealing clause (j) and substituting the following:

- (j) “tobacco product” means, subject to the regulations, a product composed in whole or in part of tobacco, including tobacco leaves, any extract of tobacco leaves and compressed tobacco, but does not include

- (i) any solid, liquid or gas substance referred to in clause (j.2)(ii), or

- (ii) any product for use in nicotine replacement therapy;

- (j.1) “vape” means to inhale or exhale the vapour produced by a vaping product;

- (j.2) “vaping product” means, subject to the regulations,

- (i) a product or device that contains a power source and heating element intended for vaporizing a substance referred to in subclause (ii) for inhalation,

- (ii) a solid, liquid or gas substance, whether or not the solid, liquid or gas substance contains nicotine, that is intended for use in a product or device referred to in subclause (i) and that, on being heated, produces a vapour, but does not include

- (A) a controlled substance within the meaning of the *Controlled Drugs and Substances Act* (Canada),

- (B) cannabis as defined in the *Cannabis Act* (Canada),
 - (C) compressed tobacco that is intended to be consumed by inhalation through a device that heats the compressed tobacco, or
 - (D) a drug as defined in the *Food and Drugs Act* (Canada),
- or
- (iii) a cartridge or component for a product or device referred to in subclause (i);

4 Sections 3 and 3.1 are repealed and the following is substituted:

Smoking and vaping prohibited

3 Subject to section 5, no person shall smoke or vape

- (a) on a hospital property, including the building, grounds and parking areas used in relation to the hospital property,
- (b) on a child care facility property, including the building, grounds and parking areas used in relation to the child care facility property,
- (c) on a school property, including the building, grounds and parking areas used in relation to the school property,
- (d) in a workplace,
- (e) in a public place,
- (f) in a public vehicle,
- (g) in a vehicle in which a minor is present,
- (h) in or within a prescribed distance from any of the following:
 - (i) a playground;
 - (ii) a sports or playing field;
 - (iii) a skateboard or bicycle park;
 - (iv) a zoo;
 - (v) an outdoor theatre;

- (vi) a public outdoor pool or splash pad;
- (vii) any other place that is prescribed or otherwise described in the regulations,

or

- (i) within a prescribed distance from a doorway, window or air intake of any place referred to in clauses (a) to (e) and (h)(vii), as the case may be.

Prohibition re minors

3.1 No minor shall possess or consume a tobacco product or vaping product or smoke or vape

- (a) in a place referred to in section 3,
- (b) in any outdoor place or area to which members of the public have access as of right or by express or implied invitation, including a highway within the meaning of the *Traffic Safety Act*, or
- (c) in a vehicle that is in a place referred to in section 3 or in an outdoor place or area referred to in clause (b).

5 Section 5 is repealed and the following is substituted:

Exceptions

5(1) An in-patient or resident of a group living facility may smoke or vape in a separate room in the facility if the room

- (a) is designated as a smoking room or vaping room or a smoking and vaping room, as the case may be, by the manager,
- (b) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking or vaping is prohibited under this Act,
- (c) has a separate ventilation system, and
- (d) conforms to any requirements prescribed by the regulations.

(2) A registered guest, and a person invited by the guest, may smoke or vape in a guest room of a hotel if the guest room

- (a) is designed primarily as sleeping accommodation,

- (b) is designated as a smoking room or vaping room or a smoking and vaping room, as the case may be, by the manager,
- (c) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking or vaping is prohibited under this Act, and
- (d) conforms to any requirements prescribed by the regulations.

6 Section 6 is repealed and the following is substituted:

Duties of managers

6 The manager of a place where smoking or vaping is prohibited under this Act must not permit a person to smoke or vape in that place.

7 Section 7 is amended

- (a) **in subsections (1) and (2) by striking out “smoking” wherever it occurs and substituting “smoking or vaping”;**
- (b) **by repealing subsection (2.1) and substituting the following:**

(2.1) The manager of a place where tobacco products or vaping products are sold or offered for sale must ensure that signs indicating that it is illegal to sell tobacco products or vaping products to minors are posted and continuously displayed in accordance with the regulations.

8 Section 7.1 is amended

- (a) **by striking out “tobacco products” wherever it occurs and substituting “tobacco products or vaping products”;**
- (b) **by striking out “tobacco product” and substituting “tobacco product or vaping product”.**

9 Section 7.2 is amended by striking out “tobacco products” wherever it occurs and substituting “tobacco products or vaping products”.

10 Section 7.3 is repealed and the following is substituted:**Sale in certain places prohibited**

7.3 No person shall sell tobacco products or vaping products, or offer tobacco products or vaping products for sale,

- (a) at a health facility in which one or more health professionals regulated under the *Health Professions Act* or another enactment provide services,
- (b) at the campus of a public post-secondary institution as defined in the *Post-secondary Learning Act*,
- (c) at a pharmacy,
- (d) at a retail store if
 - (i) a pharmacy is located in the retail store, or
 - (ii) customers of the pharmacy referred to in subclause (i) can enter the retail store directly or by use of a corridor or area used exclusively to connect the pharmacy with the retail store,
- (e) at any temporary or mobile outlets or premises, or
- (f) from a vending machine.

11 The following is added after section 7.4:**Sale of flavoured vaping products prohibited**

7.41(1) In this section, “flavoured vaping product” means a vaping product that is designated under the regulations as a flavoured vaping product.

(2) No person shall sell or offer for sale a flavoured vaping product.

12 Section 7.5 is repealed and the following is substituted:**Furnishing to minors prohibited**

7.5(1) No person shall furnish or offer to furnish a tobacco product or vaping product to a minor in a place referred to in section 3 or 3.1.

(2) No person shall furnish or offer to furnish a tobacco product or vaping product in a place referred to in section 3 or 3.1 to a person who appears to be less than 25 years of age unless the person requires the person who appears to be less than 25 years of

age to provide a prescribed form of identification and is satisfied that the person is at least 18 years of age.

(3) It is a defence to a charge under subsection (1) that the defendant reasonably believed the person to whom the tobacco product or the vaping product, as the case may be, was furnished or offered to be at least 18 years of age because

- (a) the person provided a prescribed form of identification showing his or her age, and
- (b) there was no apparent reason to doubt the authenticity of the identification or that it was issued to the person providing it.

Collection, use and disclosure of information

7.6(1) Subject to subsection (2) and the regulations, the Minister may collect from any person any information that the Minister considers necessary to use and disclose for the purposes of administering or enforcing this Act and the regulations, and the person must disclose the information.

(2) If the information disclosed under subsection (1) is personal information as defined in the *Freedom of Information and Protection of Privacy Act*, the Minister may collect and use that personal information for the purposes of administering or enforcing this Act and the regulations.

(3) Information collected under this Act may be disclosed to

- (a) the Government of Canada,
- (b) the government of a province or territory, and
- (c) the government of any other jurisdiction,

if the information is used solely for the purpose of administering or enforcing a smoking or vaping statute of Canada or of that province, territory or other jurisdiction and the Government of Canada or government of that province, territory or other jurisdiction supplies the Government of Alberta with similar information under an information-sharing agreement.

(4) Information collected under this Act may be disclosed to the President of Treasury Board and Minister of Finance for the purpose of administering or enforcing enactments for which the President of Treasury Board and Minister of Finance is responsible.

(5) No person to whom information is disclosed under subsection (3), (4) or (8) shall further disclose or use that information for any purpose other than the purpose for which it was disclosed to that person.

(6) Notwithstanding subsection (5), a person may communicate information to any person engaged or employed in the investigation or prosecution of offences under the *Criminal Code* (Canada) for the purpose of investigating and prosecuting an offence.

(7) The Minister may, in accordance with the regulations, publish the following information about a retailer:

- (a) the name of the retailer;
- (b) the address of the retailer;
- (c) the type of retailer;
- (d) any other information prescribed by the regulations.

(8) Information collected under this Act may be disclosed to and used by a person employed or engaged by the Government of Alberta if the information is to be used for the purposes of formulating or analyzing tax, fiscal or health policy.

13 Section 8 is amended

- (a) **in subsection (1.1) by striking out** “section 3.1(1) or (2)” **and substituting** “section 3.1”;
- (b) **in subsection (2) by striking out** “section 6, 7, 7.1, 7.2, 7.3 or 7.4” **and substituting** “section 6, 7, 7.1, 7.2, 7.3, 7.4 or 7.41”.

14 Section 8.1 is repealed and the following is substituted:

Description of offence

8.1 In describing an offence respecting smoking or vaping as prohibited under section 3, it is not necessary to specify the kind, brand or name of the tobacco product or vaping product used in the offence.

15 Section 8.11 is repealed and the following is substituted:**Description — offence by minor**

8.11 In describing an offence respecting possessing or consuming a tobacco product or vaping product or smoking or vaping as prohibited under section 3.1, it is not necessary to specify the kind, brand or name of the tobacco product or vaping product used in the offence.

16 Section 8.2 is repealed and the following is substituted:**Testimony of witness**

8.2 In a prosecution under this Act respecting smoking or vaping as prohibited under section 3, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product or vaping product used in the offence.

17 Section 8.21 is repealed and the following is substituted:**Testimony of witness — offence by minor**

8.21 In a prosecution under this Act respecting possessing or consuming a tobacco product or vaping product or smoking or vaping as prohibited under section 3.1, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product or vaping product used in the offence.

18 Section 8.3 is repealed and the following is substituted:**Inference of product**

8.3 In a prosecution under this Act, the court trying the case may, in the absence of evidence to the contrary, infer that the product possessed, consumed, smoked or vaped was a tobacco product or vaping product from the fact that a witness describes it by a name that is commonly used to describe a tobacco product or vaping product, as the case may be.

19 Section 8.32(1) is amended by striking out “any tobacco product or tobacco-like product” and substituting “any tobacco product, tobacco-like product or vaping product”.

20 Section 8.4(1) is amended by striking out “selling tobacco products” and substituting “selling tobacco products or vaping products”.

21 Section 9 is repealed and the following is substituted:**Regulations****9** The Lieutenant Governor in Council may make regulations

- (a) for the purposes of this Act,
 - (i) designating a place or class of places as a child care facility property, group living facility, hospital property, hotel, public place, restaurant, school property or workplace;
 - (ii) designating an outdoor place or area, or class of outdoor places or areas, as an outdoor place or area to which members of the public have access as of right or by express or implied invitation;
- (b) for the purposes of section 1(j),
 - (i) designating a product as a tobacco product;
 - (ii) excluding a product from the definition of tobacco product;
- (c) for the purposes of section 1(j.2),
 - (i) designating a product, device or substance as a vaping product;
 - (ii) excluding a product, device or substance from the definition of vaping product;
- (d) for the purposes of section 3,
 - (i) prescribing distances from the places referred to in section 3(h) and (i), which may be general or specific in their application and may include different distances from a doorway, window or air intake with respect to different classes of places;
 - (ii) prescribing or describing a place referred to in section 3(h)(vii);
- (e) prescribing requirements for the purposes of section 5(1)(d) and (2)(d);
- (f) for the purposes of sections 7 and 7.2, respecting the form and contents, the manner of posting, the display and the location of signs;
- (g) for the purposes of section 7.21,

- (i) prescribing numbers of units;
 - (ii) designating tobacco products or classes of tobacco products to which section 7.21 applies;
- (h) for the purposes of section 7.4,
- (i) designating a tobacco product as a flavoured tobacco product;
 - (ii) respecting the exemption of a flavoured tobacco product from the prohibition in section 7.4(2);
- (i) for the purposes of section 7.41,
- (i) designating a vaping product as a flavoured vaping product;
 - (ii) respecting the exemption of a flavoured vaping product from the prohibition in section 7.41(2);
- (j) for the purposes of this Act,
- (i) respecting the appointment or designation of inspectors;
 - (ii) respecting the powers, duties and obligations of inspectors, including, without limitation, regulations authorizing inspectors
 - (A) to make any inspection, investigation or inquiry that the inspector considers necessary under this Act;
 - (B) at any reasonable time to enter any place where tobacco products or vaping products are sold;
 - (C) at any reasonable time to enter any place containing records that relate to the sale of tobacco products or vaping products, and to inspect those records;
 - (D) to make copies of any records described in paragraph (C);
 - (E) to seize any tobacco products and vaping products and displays related to tobacco products and vaping products for the purposes of administering or enforcing this Act and the regulations and any order made under section 8.4;

- (iii) respecting the handling and disposition of seized tobacco products and vaping products and displays related to tobacco products and vaping products;
- (k) for the purposes of this Act,
 - (i) respecting the training of retailers, including the training by retailers of their employees regarding compliance with this Act;
 - (ii) respecting the reporting by retailers of their activities that are governed by this Act;
- (l) prescribing the forms of identification for the purposes of section 7.5(2) and (3);
- (m) for the purposes of section 7.6, respecting the collection, use and disclosure of information, including the nature of the information and the form and manner of disclosure;
- (n) respecting the form, contents and service of orders made under section 8.4;
- (o) respecting the exemption of a person or a class of persons from the application of all or any of the provisions of this Act or the regulations;
- (p) respecting the exemption of a place or a class of places from the application of all or any of the provisions of this Act or the regulations;
- (q) designating provisions in the regulations the contravention of which is an offence;
- (r) defining any word or phrase used but not defined in this Act;
- (s) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

22 Section 10 is amended by striking out “smoking” wherever it occurs and substituting “smoking or vaping”.

23 This Act comes into force on Proclamation.

