

The Tobacco and Vapour Products Control Act

being

Chapter T-14.1* of the *Statutes of Saskatchewan, 2001* (effective March 11, 2002) as amended by *Statutes of Saskatchewan, 2002, c.C-11.1 and R-8.2; 2003, c.15; 2004, c.51; 2009, c.5; 2010, c.34; 2014, C-7.31; 2015, c.17; 2017, c.P-30.3; and 2019, c.32.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER T-14.1

An Act to Control the Sale and Use of Tobacco, Tobacco-related Products and Vapour Products and to make consequential amendments to certain other Acts

PART I Preliminary Matters

Short title

1 This Act may be cited as *The Tobacco and Vapour Products Control Act*.

Interpretation

2 In this Act:

(a) **Repealed.** 2010, c.34, s.3.

(a.1) **“e-cigarette”** means all or any of the following:

(i) a product or device, whether or not it resembles a cigarette, containing an electronic or battery-powered heating element capable of vaporizing an e-substance for inhalation or release into the air;

(ii) a prescribed product or device similar in nature or use to a product or device described in subclause (i);

(a.2) **“e-substance”** means a solid, liquid or gas that, on being heated, produces a vapour for use in an e-cigarette, regardless of whether the solid, liquid or gas contains nicotine;

(b) **“enclosed public place”** means all or any part of a building or other enclosed place or conveyance to which the public has access as of right or by express or implied invitation and includes:

(i) an outdoor bus shelter;

(ii) a public building or facility, or any part of a public building or facility, that is rented out for private events;

(iii) a vehicle that:

(A) is used or made available for public transit or as a commercial vehicle; and

(B) is used to transport members of the public;

but only during any period that the vehicle is made available for hire, including any break period;

(iv) a building, enclosed place or facility owned or leased by a private club that restricts admission to members and guests;

(v) any prescribed building, place, facility or vehicle or class of prescribed buildings, places, facilities or vehicles;

(iv.1) the common areas of a multi-unit residential building; and

(b.1) **“flavoured tobacco product”** includes a tobacco product that is represented as being flavoured, that contains a flavouring agent or that is presented by its packaging, by advertisement or otherwise as being flavoured, but does not include a little cigar that contains a prohibited additive within the meaning of the *Tobacco and Vaping Products Act* (Canada);

(b.2) **“flavoured vapour product”** includes a vapour product that is represented as being flavoured, that contains a flavouring agent or that is presented by its packaging, by advertisement or otherwise as being flavoured;

(c) **“furnish”** means to sell, lend, assign, give or send, with or without consideration, or to barter or deposit with another person for the performance of a service;

(c.1) **“immediate family member”**, with respect to an individual, means that individual’s:

- (i) spouse;
- (ii) child or step-child;
- (iii) grandchild;
- (iv) sister or brother;
- (v) niece or nephew;
- (vi) parent or grandparent; or
- (vii) guardian;

and includes a spouse of the individual’s child, step-child, sister or brother and another individual with respect to whom the individual is a guardian;

(c.2) **“little cigar”** includes any of the following products:

- (i) a tobacco product that is sold as a little cigar;
- (ii) a tobacco product that:
 - (A) weighs less than 1.4 grams, or any other prescribed weight;
 - (B) is in the form of a roll or a tube; and
 - (C) has a wrapper that contains natural or reconstituted leaf tobacco;

- (iii) a tobacco product that:
 - (A) has a cellulose, acetate or other type of filter;
 - (B) is in the form of a roll or a tube; and
 - (C) has a wrapper that contains natural or reconstituted leaf tobacco;
- (iv) any other prescribed tobacco product;
- (d) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (d.1) **“ministry”** means the ministry over which the minister presides;
- (d.2) **“pharmacy”** means a pharmacy as defined in *The Pharmacy and Pharmacy Disciplines Act*;
- (e) **Repealed.** 2002, c.C-11.1, s.423.
- (f) **“prescribed”** means prescribed in the regulations;
- (f.1) **“proprietor”**:
 - (i) with respect to a place or premises, means a person who controls, governs or directs the activities carried on within the place or premises, and includes a person who is actually in charge of the place or premises at any particular time; and
 - (ii) with respect to a vehicle, means the registered owner of the vehicle or the operator in charge of the vehicle at any particular time;
- (g) **“retailer”** means a person who is engaged in a business that includes the sale of tobacco, tobacco-related products or vapour products;
- (g.1) **“school or independent school”** means a school or an independent school as defined in *The Education Act, 1995*;
- (h) **“sell”** includes offer for sale and expose for sale;
- (i) **“tobacco”** means tobacco in any form in which it is used or consumed, and includes snuff and raw leaf tobacco, but does not include any food, drug or device that contains nicotine to which the *Food and Drugs Act* (Canada) applies;
- (j) **“tobacco enforcement officer”** means:
 - (i) a person designated as a tobacco enforcement officer pursuant to section 16;
 - (ii) a member of a police service as defined in *The Police Act, 1990*; or
 - (iii) a member of the Royal Canadian Mounted Police;
- (k) **“tobacco-related product”** means a cigarette paper, a cigarette tube, a cigarette filter, a cigarette maker, a pipe or any other product used in association with tobacco that is prescribed;

(k.1) “**vapour product**” means any or all of the following:

- (i) an e-cigarette;
- (ii) an e-substance;
- (iii) a cartridge for or a component of an e-cigarette;

(l) “**young person**” means a person under the age of 18 years.

2001, c.T-14.1, s.2; 2002, c.C-11.1, s.413; 2004, c.51, s.3; 2010, c.34, s.3; 2015, c.17, s.33; 2019, c32, s.5.

Crown bound

3 This Act binds the Crown.

2001, c.T-14.1, s.3.

PART II

Transactions involving Tobacco or Tobacco-related Products

Providing tobacco etc. to young persons prohibited

4(1) No person shall provide tobacco, a tobacco-related product or a vapour product to a young person.

(2) No person shall provide tobacco, a tobacco-related product or a vapour product to a person who appears to be a young person unless the person produces, as proof that the person is 18 years of age or older:

- (a) a photo identification card that forms part of a Saskatchewan driver’s licence;
- (b) a Canadian passport;
- (c) a certificate of Canadian citizenship that contains the person’s photograph;
- (d) a Canadian Forces identification card;
- (e) any other document that:
 - (i) is issued by the government of a province or territory of Canada, the Government of Canada or the government of a foreign country or state; and
 - (ii) contains the person’s photograph, date of birth and signature; or
- (f) a prescribed document.

(3) No person shall provide tobacco, a tobacco-related product or a vapour product to a person who produces a document mentioned in subsection (2) as proof that the person is 18 years of age or older if it appears that the document has been altered.

(4) Nothing in this section prevents a legal custodian of a young person from providing tobacco, a tobacco-related product or a vapour product to the young person in a place other than a public place or a place to which the public ordinarily has access.

(5) Nothing in this section prevents a person from giving tobacco or a tobacco-related product to a young person if the gift is made solely for use in traditional Aboriginal spiritual or cultural practices or ceremonies.

2019, c 32, s.6.

Sale of cigarettes in small quantities prohibited

5(1) No person shall sell cigarettes unless the cigarettes are in a package that contains no fewer than 20 cigarettes.

(2) No person shall sell little cigars unless the little cigars are in a package that contains no fewer than 20 little cigars.

(3) No person shall sell tobacco or tobacco-related products other than cigarettes or little cigars except in a package containing the prescribed quantities or prescribed number of units.

2001, c.T-14.1, s.5; 2004, c.51, s.4; 2010, c.34, s.4.

Sale of certain flavoured tobacco products prohibited

5.1 No person shall sell a prescribed flavoured tobacco product.

2019, c 32, s.7.

Certain sales promotion practices prohibited

6(1) Subject to subsection (6), no person shall advertise or promote tobacco, tobacco-related products or vapour products in any place or premises in which tobacco, tobacco-related products or vapour products are sold if young persons are permitted access to the place or premises.

(2) No person shall advertise or promote tobacco, tobacco-related products or vapour products by means of an advertisement or promotional material placed in the windows of any place or premises in which tobacco, tobacco-related products or vapour products are sold if the advertisement or promotional material is placed so that it is visible from the outside of the place or premises.

(3) No retailer shall permit tobacco, tobacco-related products or vapour products to be displayed in the retailer's business premises so that the tobacco, tobacco-related products or vapour products are visible to the public if young persons are permitted access to those premises.

(4) No retailer shall permit tobacco, tobacco-related products or vapour products to be displayed in the retailer's business premises so that the tobacco, tobacco-related products or vapour products are visible to the public from the outside of the premises.

(5) No person shall advertise or promote tobacco, tobacco-related products or vapour products on an outdoor sign of any type, including:

- (a) a billboard or portable sign; or
- (b) a sign on a bench, vehicle, building or other structure.

(6) A place or premises mentioned in subsection (1) may display a sign that lists the tobacco, tobacco-related products or vapour products offered for sale and the prices of the tobacco, the tobacco-related products and vapour products, if the sign complies with any prescribed requirements.

2019, c 32, s.8.

Unauthorized signs prohibited, display of supplied signs required

7(1) No person shall, at any place or premises in which tobacco, tobacco-related products or vapour products are sold at retail, display any sign respecting the legal age to purchase tobacco, tobacco-related products or vapour products in Saskatchewan or health warnings respecting tobacco, tobacco-related products or vapour products unless the sign:

- (a) is a sign supplied or approved by the ministry; or
- (b) is otherwise authorized pursuant to the *Tobacco and Vaping Products Act* (Canada).

(2) No retailer shall fail to display in the retailer's premises any sign supplied by the ministry respecting the legal age to purchase tobacco, tobacco-related products or vapour products in Saskatchewan or health warnings respecting tobacco, tobacco-related products or vapour products.

(3) Without relieving a retailer from the duty to display signs as required by this section, if the regulations prescribe the manner in which and the locations in which those signs are to be displayed, no retailer shall fail to display the signs in the prescribed manner and in the prescribed locations.

2001, c.T-14.1, s.7; 2004, c.51, s.5; 2010, c.34, s.7; 2019, c32, s.9.

Sale in certain places prohibited

8 No person shall sell tobacco, tobacco-related products or vapour products in any of the following places or premises:

- (a) a school or an independent school;
- (b) a facility or place operated by the provincial health authority or an affiliate, as defined in *The Provincial Health Authority Act*;
- (c) a health facility as defined in *The Health Facilities Licensing Act*;
- (d) a facility designated as a special-care home pursuant to *The Provincial Health Authority Act*;
- (e) a facility as defined in *The Mental Health Services Act*;
- (f) a community clinic mentioned in subsection 9-4(2) of *The Provincial Health Authority Act*;
- (f.1) a building, or the portion of a building, owned or occupied by:
 - (i) the Government of Saskatchewan, any ministry as defined in *The Executive Government Administration Act* or any Crown corporation as defined in *The Crown Corporations Act, 1993*; or
 - (ii) a municipality;

- (f.2) a video arcade;
- (f.3) an amusement park;
- (f.4) a theatre;
- (f.5) a pharmacy;
- (f.6) a retail store if:
 - (i) a pharmacy is located in the retail store; or
 - (ii) customers of a pharmacy can enter into the retail store directly or by the use of a corridor or area used exclusively to connect the pharmacy with the retail store;
- (g) a prescribed place.

2001, c.T-14.1, s.8; 2002, c.R-8.2, s.97; 2004, c.51, s.6; 2010, c.34, s.8; 2017, c.P-30.3, s.11-1 and 11-29; 2019, c.32, s.10.

Vending machines in certain places prohibited

9(1) In this section, “**proprietor**” means, with respect to a place or premises, the person who owns or occupies the place or premises.

(2) Subject to subsection (3):

- (a) no proprietor shall permit a vending machine that dispenses tobacco, tobacco-related products or vapour products to be located in the proprietor’s place or premises; and
- (b) no person shall place, or cause to be placed, a vending machine that dispenses tobacco, tobacco-related products or vapour products in any place or premises.

(3) A vending machine that dispenses tobacco, tobacco-related products or vapour products may be located:

- (a) in a place or premises to which the public is not permitted access; or
- (b) in a place or premises to which the public is permitted access if:
 - (i) young persons are not permitted to enter the place or premises; and
 - (ii) the vending machine is located:
 - (A) not less than a prescribed distance from any entrance to the place or premises; and
 - (B) in a position that permits the proprietor or employees of the proprietor to monitor the use of the vending machine.

2001, c.T-14.1, s.9; 2019, c.32, s.11.

PART III
Protection against Environmental Tobacco Smoke

10 Repealed. 2004, c.51, s.7.

Smoking in vehicle with person under the age of 16 present prohibited

10.1(1) Subject to subsection (2), no person shall smoke, hold lighted tobacco or use or consume vapour products in a vehicle while another person who is under the age of 16 years is present in the vehicle.

(2) Subsection (1) does not apply to a prescribed vehicle or a prescribed class of vehicles.

2010, c.34, s.9; 2019, c32, s.12.

Prohibited areas re: smoking, use, consumption, etc., of tobacco

11(1) In this section, “**child care facility**” means a facility as defined in *The Child Care Act, 2014*.

(2) Subject to subsection (3), no person shall:

(a) smoke, use or consume tobacco, hold lighted tobacco or use or consume vapour products, in an enclosed public place that is a school or an independent school or on the grounds surrounding a school or an independent school; or

(b) smoke, hold lighted tobacco or use or consume vapour products:

(i) in an enclosed public place other than a school or an independent school; or

(ii) within a prescribed distance from a doorway, window or air intake of an enclosed public place mentioned in subclause (i).

(3) Subsection (2) does not apply to:

(a) a separate enclosed ventilated place that:

(i) is within:

(A) a facility designated as a special-care home pursuant to *The Provincial Health Authority Act*; or

(B) a personal care home as defined in *The Personal Care Homes Act* that offers care and accommodation to more than 10 persons; and

(ii) meets the prescribed requirements;

(b) a child care facility that is a group family child care home or a licensed family child care home during the times that no child care services are being provided in the facility;

(c) an enclosed public place while it is being used with the consent of the proprietor, for traditional Aboriginal spiritual or cultural practices or ceremonies, if the use of tobacco or tobacco-related products is an integral part of the traditional Aboriginal spiritual or cultural practices or ceremonies being carried out in the enclosed public place;

- (c.1) subject to subsection (4), in the case of a retailer of vapour products, the retailer's place of business, but only:
- (i) if no young persons are admitted to the place of business;
 - (ii) subject to subsection (5), for the purposes of sampling a vapour product by persons who intend to purchase a vapour product from the retailer;
 - (iii) if the retailer's place of business is fully enclosed by floor-to-ceiling walls, a ceiling and doors that separate that place of business from any adjacent area in which the use of vapour products is prohibited; and
 - (iv) if the proprietor of a retailer of vapour products where the use of vapour products is permitted pursuant to this Act and the regulations has taken reasonable steps to minimize the drifting of vapour into areas where the use of vapour products is prohibited;
- (d) **Repealed.** 2010, c.34, s.10.
- (e) a prescribed place, premises or vehicle.
- (4) The proprietor of a retailer of vapour products and any employee of the retailer may use vapour products inside the retailer's place of business, but only:
- (a) for the purposes of sampling the vapour products for the purpose of sale; and
 - (b) when the retailer is not open to the public.
- (5) Subclause (3)(c.1)(ii) does not apply in the case of a retailer whose place of business is a permitted premises as defined in *The Alcohol and Gaming Regulation Act, 1997*.

2001, c.T-14.1, s.11; 2002, c.R-8.2, s.97; 2004, c.51, s.8 and s.9; 2009, c.5, s.10; 2010, c.34, s.10; 2014, c.C-7.31, s.33; 2017, cP-30.3, s.11-1; 2019, c 32, s.13.

Proprietors to prohibit contraventions

- 11.1(1)** For the purposes of complying with section 11, every proprietor of an enclosed public place shall ensure that:
- (a) subject to subsection (2), no ashtrays, matches, lighters or other things designed or used to facilitate smoking are provided in the enclosed public place; and
 - (b) the signs required by section 13 are posted in accordance with that section.
- (2) The prohibition in clause (1)(a) respecting ashtrays and lighters does not apply to a vehicle that is an enclosed public place if the vehicle is equipped by the manufacturer with ashtrays and lighters.

- (3) If a person is contravening section 11 in an enclosed public place, the proprietor shall:
- (a) request the person to immediately:
 - (i) stop smoking or holding lighted tobacco and to immediately extinguish the lighted tobacco;
 - (ii) stop using or consuming vapour products; or
 - (iii) in the case of a school or independent school:
 - (A) stop smoking, using or consuming tobacco or holding lighted tobacco and to immediately extinguish any lighted tobacco; or
 - (B) stop using or consuming vapour products;
 - (b) inform the person that he or she was committing an offence; and
 - (c) refuse to provide that person with a good or service that the proprietor customarily provides in the enclosed public place until that person ceases contravening section 11.

2004, c.51, s.10; 2010, c.34, s.11; 2019, c.32, s.14.

12 Repealed. 2004, c.51, s.11.

Signs required

13(1) Subject to subsection (2), every proprietor of a place or premises to which section 11 applies shall ensure that signs containing a statement respecting the prohibition against smoking, holding lighted tobacco or using or consuming vapour products are posted at the place or premises in accordance with the regulations.

(2) Every proprietor of a school or independent school shall ensure that signs containing a statement respecting the prohibition against smoking, using or consuming tobacco, holding lighted tobacco or using or consuming vapour products are posted at the school or independent school in accordance with the regulations

2010, c.34, s.12; 2019, c.32, s.15.

Ashtrays, etc., prohibited

14(1) Every proprietor of a place or premises to which section 11 applies shall ensure that ashtrays and similar products associated with the use of tobacco are not available for use in the place or premises, except as permitted by the regulations.

(2) **Repealed.** 2004, c.51, s.12.

2001, c.T-14.1, s.14; 2004, c.51, s.12.

Restrictive provision prevails

15 If there is a conflict between section 10.1, 11, 13 or 14 of this Act and a provision of any other Act, any regulation or any bylaw of a municipality, the provision that is more restrictive prevails.

2001, c.T-14.1, s.15; 2004, c.51, s.13; 2010, c.34, s.13.

PART IV

Administration and Enforcement**Appointment of tobacco enforcement officers**

16(1) The minister may:

- (a) designate persons to act as tobacco enforcement officers for the purposes of this Act; and
- (b) in designating a person pursuant to clause (a), impose any restrictions on the powers of the person that the minister considers appropriate.

(2) A tobacco enforcement officer designated pursuant to subsection (1) who enters a place or premises for the purposes of this Act must, on request, show evidence of his or her designation to the person in charge of the place or premises.

2001, c.T-14.1, s.16.

Powers of tobacco enforcement officers

17(1) In this section, “**record**” includes any information that is recorded or stored in any form by means of any device or medium.

(2) For the purposes of administering and enforcing this Act and the regulations, a tobacco enforcement officer may:

- (a) subject to subsections (3) and (4), at any reasonable time, enter and inspect any place or premises where:
 - (i) tobacco, tobacco-related products or vapour products are sold at retail or wholesale;
 - (ii) vending machines that dispense or are capable of dispensing tobacco, tobacco-related products or vapour products are located;
 - (iii) the sale of tobacco, tobacco-related products or vapour products is prohibited pursuant to this Act; or
 - (iv) smoking, using or consuming tobacco, holding lighted tobacco or using or consuming vapour products is prohibited pursuant to this Act;
- (b) make any inspection, investigation or inquiry that the tobacco enforcement officer considers necessary;

- (c) subject to subsections (3) and (4), at any reasonable time, enter any place or premises containing any records or property that are required to be kept pursuant to this Act or the regulations or that relate to the sale of tobacco, tobacco-related products or vapour products, and inspect those records or that property;
 - (d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems or other devices or systems that are ordinarily used in carrying on business at the place or premises;
 - (e) make a copy of any records described in clause (c) or, if the tobacco enforcement officer is unable to make a satisfactory copy, after giving a receipt remove and retain the records for any period the tobacco enforcement officer considers reasonable;
 - (f) investigate an allegation that a contravention of this Act or the regulations has occurred and question any person for the purpose of that investigation;
 - (g) engage the services of young persons for the purpose of making test purchases to investigate whether a person is selling tobacco, tobacco-related products or vapour products to young persons;
 - (h) require any person in control or immediate charge of a vending machine that is capable of dispensing tobacco, tobacco-related products or vapour products to open the machine for inspection;
 - (i) seize all or any of the following:
 - (i) tobacco, tobacco-related products or vapour products;
 - (ii) a vending machine that is capable of dispensing tobacco, tobacco-related products or vapour products;
 - (iii) the contents of a vending machine that is capable of dispensing tobacco, tobacco-related products or vapour products;
 - (iv) any other substance or thing that a tobacco enforcement officer believes, on reasonable grounds, constitutes evidence of a contravention of this Act or the regulations; and
 - (j) with respect to a person who is in, or has been in, the premises of a retailer and to whom the tobacco enforcement officer believes tobacco, tobacco-related products or vapour products may have been furnished:
 - (i) ask the person for proof of his or her age; and
 - (ii) make other inquiries of the person.
- (3) Subject to subsection (4), a tobacco enforcement officer shall not enter a private dwelling without the consent of the occupier or a warrant obtained pursuant to *The Summary Offences Procedure Act, 1990*.

(4) During the hours in which child care services are being provided, a tobacco enforcement officer may enter a group family child care home or a licensed family child care home for the purposes of subclause (2)(a)(iv) without the consent of the occupier or a warrant obtained pursuant to *The Summary Offences Procedure Act, 1990*.

2001, c.T-14.1, s.17; 2004, c.51, s.14; 2010, c.34, s.14; 2019, c.32, s.16.

Obstruction, false statement, etc., prohibited

18(1) No person shall obstruct a tobacco enforcement officer who is acting pursuant to the authority of this Act or the regulations.

(2) No person shall knowingly make a false or misleading statement to a tobacco enforcement officer or produce a false document or thing to a tobacco enforcement officer.

2001, c.T-14.1, s.18.

Sign removal, alteration, etc., prohibited

19 No person shall remove, cover up, mutilate, deface or alter any sign required pursuant to this Act or the regulations to be displayed or posted.

2001, c.T-14.1, s.19.

PART V Offences and Penalties

Offences pursuant to Part II

20(1) Every person who contravenes a provision of section 4, 5, 5.1, 6, 7, 8 or 9 is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$3,000;
- (b) for a second offence, to a fine of not more than \$5,000;
- (c) for a third offence, to a fine of not more than \$15,000; and
- (d) for a fourth or subsequent offence, to a fine of not more than \$50,000.

(2) It is not a defence to a prosecution for a contravention of section 4 for the person accused of furnishing tobacco, a tobacco-related product or a vapour product to a young person to show that the young person appeared to be 18 years of age or older.

2001, c.T-14.1, s.20; 2019, c.32, s.17.

Evidence of previous convictions

21 A certificate of a previous conviction purporting to be under the hand of the convicting judge, a local registrar of the Court of Queen's Bench or a clerk of the Provincial Court of Saskatchewan is admissible, in the absence of evidence to the contrary, as proof of the facts stated in the certificate without proof of signature or official character.

2001, c.T-14.1, s.21.

Convictions pursuant to *Tobacco Act* (Canada)

22 Where a retailer is convicted of an offence arising from a contravention of section 8 of the *Tobacco Act* (Canada), the conviction pursuant to the *Tobacco Act* (Canada) is deemed to be a conviction pursuant to subsection 20(1) for the purposes of determining any applicable penalty pursuant to subsection 20(1) or 23(1) for a contravention of section 4.

2001, c.T-14.1, s.22.

Prohibition order – repeat offences by retailer

23(1) In this section, “**successor**” means, with respect to a retailer who is an individual or that is a corporation that is controlled directly or indirectly by an individual or by an individual and one or more members of that individual's immediate family:

- (a) a member of the retailer's immediate family who takes over or assumes control or operation of the retailer's business; or
- (b) any person or partnership that:
 - (i) is related to, is directly or indirectly controlled by or is not dealing at arm's length, within the meaning of the *Income Tax Act* (Canada), from the retailer or a member of the retailer's immediate family; and
 - (ii) takes over or assumes control or operation of the retailer's business.

(2) If a retailer is convicted of a second or subsequent offence pursuant to subsection 20(1) for a contravention of section 4, the convicting judge shall also make an order:

- (a) prohibiting the retailer or any successor to the retailer from keeping or furnishing tobacco, tobacco-related products or vapour products at the place or premises at which the offence took place or at any place or premises to which the business of the retailer or the retailer's successor is moved:
 - (i) for a period of seven days from the date of conviction or a date ordered by the judge, if the conviction is a second conviction;
 - (ii) for a period of six months from the date of conviction or a date ordered by the judge, if the conviction is a third conviction;
 - (iii) for a period of one year from the date of conviction or a date ordered by the judge, if the conviction is a fourth or subsequent conviction; and

- (b) requiring the retailer or any successor to post clearly visible signs that:
 - (i) meet the requirements of the regulations; and
 - (ii) state that the retailer or successor is prohibited from keeping or furnishing tobacco, tobacco-related products or vapour products at the place or premises for the period specified in the order.
- (3) For the purposes of subsection (2), a conviction is:
 - (a) a second conviction if, during the three-year period preceding the date of the conviction, the retailer or successor has been convicted of an offence pursuant to subsection 20(1) for a contravention of section 4;
 - (b) a third conviction if, during the three-year period preceding the date of the conviction, the retailer or successor has been convicted of two offences pursuant to subsection 20(1) for a contravention of section 4;
 - (c) a fourth or subsequent conviction if, during the three-year period preceding the date of the conviction, the retailer or successor has been convicted of three or more offences pursuant to subsection 20(1) for a contravention of section 4.
- (4) An order made pursuant to clause (2)(a) does not prevent the keeping of small amounts of tobacco, tobacco-related products or vapour products for the immediate personal use of persons who work in the place or premises.

2004, c.51, s.15; 2019, c.32, s.18.

Offence - contravention of order

24 Every person who contravenes an order made pursuant to subsection 23(1) is guilty of an offence and liable on summary conviction to a fine of not more than:

- (a) \$5,000 in the case of an order with respect to an offence mentioned in subclause 23(1)(a)(i) and, in the case of a continuing offence, to a further fine of not more than \$5,000 for each day or part of a day during which the offence continues;
- (b) \$15,000 in the case of an order with respect to an offence mentioned in subclause 23(1)(a)(ii) and, in the case of a continuing offence, to a further fine of not more than \$15,000 for each day or part of a day during which the offence continues; or
- (c) \$50,000 in the case of an order with respect to an offence mentioned in subclause 23(1)(a)(iii) and, in the case of a continuing offence, to a further fine of not more than \$50,000 for each day or part of a day during which the offence continues.

2001, c.T-14.1, s.24.

Offences pursuant to Parts III and IV

25(1) Every person who contravenes a provision of section 10.1 or 11 of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

(2) Every person who contravenes a provision of section 11.1, 12, 13 or 14 of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

(3) Every person who contravenes a provision of section 18 is guilty of an offence and liable on summary conviction to a fine of not more than:

(a) in the case of a first offence, \$3,000; and

(b) in the case of a second or subsequent offence, \$5,000.

(4) Every person who contravenes a provision of section 19 is guilty of an offence and liable on summary conviction to a fine of not more than \$3,000.

2001, c.T-14.1, s.25; 2004, c.51, s.16; 2010, c.34, s.17.

Directors, etc., of corporations

26 Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence, and is liable on summary conviction to the penalties provided for the offence whether or not the corporation has been prosecuted or convicted.

2001, c.T-14.1, s.26.

Vicarious liability

27 In a prosecution for an offence pursuant to this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted or convicted for the offence, unless the accused establishes that the offence was committed without his or her knowledge and that the accused exercised all due diligence to prevent its commission.

2001, c.T-14.1, s.27.

Evidence

28 In a prosecution for an offence pursuant to this Act, the trial judge may infer that any substance or object in question is tobacco, a tobacco-related product or a vapour product within the meaning of this Act from the fact that a witness describes it as tobacco, a tobacco-related product or a vapour product or by a name that is commonly applied to tobacco, a tobacco-related product or a vapour product.

2019, c.32, s.19.

Disposition of property seized

29(1) Where a person is convicted of a contravention of section 9, any money that was found in a vending machine capable of dispensing tobacco, tobacco-related products or vapour products and that was seized in relation to the contravention is forfeited to the Crown.

(2) Subject to subsection (1), where a person is convicted of any offence pursuant to this Act, the convicting judge may make any order for the disposition of any substance or thing seized in relation to the contravention that the judge considers appropriate.

2001, c.T-14.1, s.29; 2019, c.32, s.20.

PART VI General

Regulations

30 For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(a.01) for the purposes of clause 2(a.1), prescribing products or devices as vapour products;

(a.1) for the purposes of clause 2(b), prescribing buildings, places, facilities or vehicles or any class of buildings, places, facilities or vehicles as enclosed public places;

(a.2) for the purposes of clause 2(c.2):

(i) prescribing the weight of a tobacco product;

(ii) prescribing tobacco products as little cigars;

(b) for the purposes of clause 2(k), prescribing products as tobacco-related products;

(c) for the purposes of clause 4(2)(f), prescribing documents that may be used as proof of age;

(c.1) for the purposes of section 5, prescribing the quantities or number of units in a package containing tobacco or tobacco-related products;

(c.11) for the purposes of section 5.1, prescribing prohibited flavoured tobacco products;

(c.12) **Not yet proclaimed.** 2019, c.32, s.21.

(c.13) for the purposes of subsection 6(6), prescribing requirements for signs regarding tobacco, tobacco-related products or vapour products;

(c.2) for the purposes of subsection 7(3), prescribing the manner in which and the locations in which a retailer must post signs supplied by the ministry;

(d) for the purposes of clause 8(g), prescribing places or premises in which the sale of tobacco, tobacco-related products or vapour products is prohibited;

(e) for the purposes of paragraph 9(3)(b)(ii)(A), prescribing the minimum distance from an entrance at which a vending machine may be located;

(e.1) for the purposes of section 10.1, prescribing vehicles or any class of vehicles to which subsection 10.1(1) does not apply;

(f) **Repealed.** 2004, c.51, s.17.

(g) **Repealed.** 2004, c.51, s.17.

- (g.1) for the purposes of clause 11(2)(b), prescribing a distance from a doorway, window or air intake of an enclosed public place;
- (h) for the purposes of clause 11(3)(a), prescribing requirements for separate enclosed ventilated places within special-care homes or personal care homes;
- (i) for the purposes of clause 11(3)(e), prescribing places, premises or vehicles to which subsection 11(2) does not apply;
- (j) for the purposes of section 13, respecting signs to be posted;
- (k) for the purposes of subsection 14(1), authorizing and governing the provision of ashtrays or similar products in places or premises;
- (l) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (m) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2001, c.T-14.1, s.30; 2004, c.51, s.17; 2004, c.51, s.17; 2010, c.34, s.17; 2019, c.32, s.21.

Non-liability

31 No action or proceeding lies or shall be commenced against the minister, the ministry, a tobacco enforcement officer, an employee or agent of the ministry or any other person appointed to administer all or any of the provisions of this Act or the regulations for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

2001, c.T-14.1, s.31; 2010, c.34, s.18

R.S.S. 1978, c.M-20 repealed

32 *The Minors Tobacco Act* is repealed.

S.S. 1983, c.N-5.1, new section

33 *The Northern Municipalities Act* is amended by adding the following section after section 108:

“Smoking

108.1(1) In this section, ‘**enclosed public place**’ means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited.

(2) Subject to *The Tobacco Control Act*, a council may, by bylaw, prohibit, control or regulate the following activities in any enclosed public place or public transit vehicle:

- (a) the lighting of any cigar, cigarette, pipe or other smoking device;
- (b) the carrying or smoking of any lighted cigar, cigarette, pipe or other smoking device.

(3) For the purposes of subsection (2), the power to prohibit, control or regulate includes the following powers:

- (a) to establish categories and subcategories of enclosed public places and public transit vehicles;
- (b) to establish different prohibitions, controls or regulatory requirements for different categories and subcategories;
- (c) to exempt any enclosed public place or public transit vehicle or any category or subcategory of enclosed public places or public transit vehicles from all or any part of a bylaw”.

S.S. 1994, c.P-37.1 amended

34(1) *The Public Health Act* is amended in the manner set forth in this section.

(2) The following subsection is added after subsection 46(2):

“(3) Nothing in this section authorizes the enactment of regulations respecting the use of tobacco or tobacco-related products as defined in *The Tobacco Control Act*”.

(3) The following subsection is added after subsection 47(2):

“(3) Nothing in this section authorizes the enactment of bylaws respecting the use of tobacco or tobacco-related products as defined in *The Tobacco Control Act*”.

(4) The following subsection is added after subsection 48(2):

“(3) Nothing in this section authorizes the enactment of bylaws respecting the use of tobacco or tobacco-related products as defined in *The Tobacco Control Act*”.

(5) Section 50 is amended:

(a) in subsection (3) by adding “but subject to subsection (3.1)” after “Notwithstanding any other Act”; and

(b) by adding the following subsection after subsection (3):

“(3.1) Subsection (3) does not apply to a bylaw made by a council of a municipality pursuant to section 108.1 of *The Northern Municipalities Act*, section 215.1 of *The Rural Municipality Act, 1989* or section 142 of *The Urban Municipality Act, 1984*”.

S.S. 1989-90, c.R-26.1, new section 215.1

35 Section 215.1 of *The Rural Municipality Act, 1989* is repealed and the following substituted:

“Smoking

215.1(1) In this section, ‘**enclosed public place**’ means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited.

(2) Subject to *The Tobacco Control Act*, a council may, by bylaw, prohibit, control or regulate the following activities in any enclosed public place or public transit vehicle:

- (a) the lighting of any cigar, cigarette, pipe or other smoking device;
- (b) the carrying or smoking of any lighted cigar, cigarette, pipe or other smoking device.

(3) For the purposes of subsection (2), the power to prohibit, control or regulate includes the following powers:

- (a) to establish categories and subcategories of enclosed public places and public transit vehicles;
- (b) to establish different prohibitions, controls or regulatory requirements for different categories and subcategories;
- (c) to exempt any enclosed public place or public transit vehicle or any category or subcategory of enclosed public places or public transit vehicles from all or any part of a bylaw”.

S.S. 1983-84, c.U-11, new section 142

36 Section 142 of *The Urban Municipality Act, 1984* is repealed and the following substituted:

“Smoking

142(1) In this section, ‘**enclosed public place**’ means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited.

(2) Subject to *The Tobacco Control Act*, a council may, by bylaw, prohibit, control or regulate the following activities in any enclosed public place or public transit vehicle:

- (a) the lighting of any cigar, cigarette, pipe or other smoking device;
- (b) the carrying or smoking of any lighted cigar, cigarette, pipe or other smoking device.

(3) For the purposes of subsection (2), the power to prohibit, control or regulate includes the following powers:

- (a) to establish categories and subcategories of enclosed public places and public transit vehicles;
- (b) to establish different prohibitions, controls or regulatory requirements for different categories and subcategories;
- (c) to exempt any enclosed public place or public transit vehicle or any category or subcategory of enclosed public places or public transit vehicles from all or any part of a bylaw”.

Coming into force

37 This Act comes into force on proclamation.

2001, c.T-14.1, s.37.