

1994 BILL 224

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 224

TOBACCO CONTROL ACT

MR. BRASSARD

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 224
Mr. Brassard

BILL 224

1994

TOBACCO CONTROL ACT

(Assented to _____, 1994)

WHEREAS tobacco use has resulted in disease, disability and death of epidemic proportions; and

WHEREAS children must be offered protection from tobacco to prevent the spread of the epidemic to future generations;

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

interpretation

1 In this Act,

- (a) "justice" means judge of the Provincial Court of Alberta;
- (b) "Minister" means the member of Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (c) "peace officer" means peace officer as defined in the *Provincial Offences Procedure Act*;
- (d) "retailer" means a person engaged in any business that includes the retail sale of tobacco products and includes all agents and employees;
- (e) "self-service tobacco display" means a retail display of tobacco or tobacco products where a customer has access

to the tobacco or tobacco products without the intervention of the retailer or an employee of the retailer;

- (f) "this Act" means this Act and the regulations;
- (g) "tobacco paraphernalia" means cigarette papers, cigarette tubes, cigarette makers, cigarette holders and pipes;
- (h) "tobacco product" means any product manufactured wholly or partly from tobacco and intended for use by smoking, inhalation or mastication, including nasal and oral snuff and tobacco paraphernalia;
- (i) "tobacco vending machine" includes any automatic machine that dispenses tobacco or a tobacco product and intended for use by smoking, inhalation or mastication, including nasal or oral snuff and tobacco paraphernalia.

Prohibiting sales
to persons under
18 years of age

2(1) No person may directly or indirectly sell, distribute or furnish tobacco products to a person under the age of 18 years.

(2) No person may grant a person under the age of 18 years authority to obtain tobacco products except a peace officer for the purpose of monitoring compliance with this Act.

(3) It is no defence to a prosecution for an offence under subsection (1) for the person to show that the person under the age of 18 years appeared to be above that age.

(4) Every person selling tobacco products must require a person wishing to purchase a tobacco product and appearing to be under the age of 18 years, to provide satisfactory proof of age as may be prescribed in the regulations, or else refuse the sale of any tobacco product.

(5) No person may present altered proof of age when required by a retailer to present proof of age under subsection (4).

(6) If it appears that any proof of age provided under subsection (4) has been altered in any way, the person who demanded the proof of age shall not accept it as satisfactory and shall not complete the sale.

(7) No person shall be convicted of an offence under subsection

(1) if that person reasonably believed that the individual to whom the tobacco product was sold or given was at least 18 years of age because the individual produced a prescribed form of identification showing his age to be 18 years of age or older.

Self-service
displays and
vending machines

3(1) No person shall locate on any premises or in any place accessible to the public, or in any such place owned by or in the possession or control of that person, a tobacco vending machine or a self-service tobacco display.

Sign requirements

4(1) Every retailer shall be required to post at the place of retail business any signs in the manner, place, form and size and disclosing such information relating to the sale of tobacco and the effects of tobacco on health as prescribed by the regulations.

(2) No person shall sell, display or distribute signs or promotional material in which a tobacco product's brand name or trademark is employed, except as prescribed by the regulations.

Powers of peace
officer

5(1) For the purpose of enforcing this Act, a peace officer may

- (a) at any reasonable time, enter and inspect premises where tobacco products are sold or offered for sale;
- (b) arrange for test purchases of tobacco products;
- (c) request information or production for inspection of documents or other things that may be relevant to the carrying out of an investigation; and
- (d) remove documents or other things produced as a result of a request under subsection (c) or discovered during the investigation for the purpose of making copies or taking extracts.

(2) A peace officer removing a document or other thing from premises under subsection (1) shall first provide a receipt for it to the person in charge of the premises and, subject to subsection (3), shall promptly return the document or other thing to the premises after completion of the making of copies or taking of extracts, as the case may be.

(3) A peace officer may detain any document or other thing that the peace officer discovers while acting under this section and believes, on reasonable and probable grounds, may afford evidence of a violation of or a failure to comply with a provision of this Act.

(4) Copies of or extracts from documents or things removed from the premises under this Act and certified by the person making the copies or taking the extracts as being true copies of or extracts from the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or from which they are extracts.

(5) Every person shall give all reasonable assistance to the peace officer to enable the peace officer to exercise powers given under this Act and shall furnish the peace officer with such information, documents and other things as the peace officer may reasonable request.

Regulations

6 The Lieutenant Governor in Council may make regulations

- (a) prescribing anything that by this Act may be prescribed;
- (b) specifying the content, form and manner of presentation of signs that must be displayed with tobacco products at the time the tobacco product is offered for sale or is sold to a purchaser as required in section 4(1);
- (c) specifying the content, form and manner of presentation of signs that must accompany signs or promotional material in which a tobacco product brand name or trademark is employed as required in section 4(2);
- (d) prescribing satisfactory proof of age as required in section 2(4);

Offences

7 A person who contravenes this Act is guilty of an offence.

Penalties

8(1) A person who commits an offence under this Act, except section 2(5), is liable

- (a) for a first offence, to a fine not exceeding \$500,

(b) for a second offence, to a fine not exceeding \$5,000, and

(c) for a third or subsequent offence, to a fine not exceeding \$25,000.

(2) A person found guilty of an offence under section 2(5) of this Act is liable to a fine not exceeding \$100.

(3) When a retailer is convicted pursuant to subsection (1), the justice shall make an order prohibiting the retailer and the retailer's employees from selling tobacco products at the premises at which the contravention took place or any premises to which the business is moved for a period of

(a) in the case of a first offence, 7 days;

(b) in the case of a second offence, 3 months; and

(c) in the case of a third or subsequent offence, 12 months.

(4) Every person who contravenes an order made pursuant to subsection (3) is liable to a fine of \$2,000, and, in the case of a continuing offence, to a further fine of \$2,000 for each day that the offence continues.

Crown bound **9 This Act binds the Crown.**

Coming into force **10 This Act comes into force upon proclamation.**