

1997 BILL 213

Fifth Session, 23rd Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 213

NON-SMOKERS' HEALTH ACT

DR. OBERG

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 213
Dr. Oberg

BILL 213

1997

NON-SMOKERS' HEALTH ACT

(Assented to , 1997)

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

Definitions

1 In this Act,

- (a) "designated smoking room" means an enclosed room that is designated for smoking under section 2(2);
- (b) "employee" means a person who is employed to do work who is in receipt of or entitled to wages, salary, commission or other remuneration;
- (c) "employer" means a person who employs an employee and includes
 - (i) an employer as defined in the *Public Service Employee Relations Act*,
 - (ii) the Legislative Assembly,
 - (iii) the Legislative Assembly Office,
 - (iv) any officers of the Legislature, and
 - (v) any person who pursuant to a lease, contract or other arrangement occupies space in a building owned or operated by the Crown where the lease, contract or

other arrangement commences on or is renewed on or after the date this Act comes into force;

- (d) "inspector" means a person designated as such pursuant to section 7;
- (e) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) "smoke" means to smoke, hold or otherwise have control over an ignited tobacco product;
- (g) "tobacco product" means any product manufactured wholly or partly from tobacco and intended for use by smoking;
- (h) "work space" means any indoor or other enclosed space in which employees perform the duties of their employment, and includes any adjacent corridor, lobby, stairwell, elevator, cafeteria, washroom or other common area frequented by such employees during the course of their employment, but does not include a restaurant, bar, lounge, tavern or retail store devoted solely to the sale of tobacco products.

PART 1

SMOKING PROHIBITED

Duty of employer

- 2(1) Every employer, and any person acting on behalf of an employer, shall ensure that persons refrain from smoking in any work space under the control of the employer except in those rooms designated under subsection (2).
- (2) An employer may, to the extent permitted by the regulations, designate for smoking enclosed rooms under the control of the employer other than rooms normally occupied by non-smokers.
- (3) Notwithstanding subsection (1), an employer may require employees, by reason of the nature of their duties, to perform those duties in a room designated for smoking under subsection (2).
- (4) Where an employer has designated a room for smoking under

subsection (2) in a building or portion of a building the construction of which commenced before January 1, 1998, the employer shall, to the extent reasonably practicable, ensure that the room conforms to any requirements of the regulations respecting independent ventilation of designated smoking rooms.

(5) No employer shall designate a room for smoking under subsection (2) in a building or portion of a building the construction of which commenced after December 31, 1997 if the room fails to conform to any requirements of the regulations respecting independent ventilation of designated smoking rooms.

(6) No employer shall designate a room for smoking under subsection (2) in a work space until after the employer has consulted with the joint work site health and safety committee appointed pursuant to the *Occupational Health and Safety Act* in respect of that work place or, if there is no such committee, with the employees employed there.

Smoking
prohibited

3(1) No person shall smoke in any work space under the control of an employer except in a designated smoking room.

(2) An employer shall, to the extent and in the manner required by the regulations, inform employees and members of the public of the prohibition imposed by subsection (1) and of the location of designated smoking rooms under the control of the employer.

Saving
provision

4 Nothing in section 3 affects the operation of any other Act or regulations thereunder or any rule of law in relation to the protection of persons from exposure to tobacco smoke.

Regulations

5(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the size, number, proportionate floor space, location, use, number of occupants and other characteristics of rooms that may be designated for smoking under section 2(2);
- (b) respecting the ventilation of designated smoking rooms;
- (c) respecting the notice that employers must provide concerning the prohibition imposed by section 3(1) and

concerning the location of designated smoking rooms.

(2) Regulations made pursuant to this section may be made applicable to all employers or to a class of employer and in respect of all work spaces or a class of work space.

Proceedings
against Crown

6 Notwithstanding any other Act, proceedings in respect of an offence under this Act may be brought against an employer that is an agent of the Crown in the employer's own name, or against a person acting on behalf of such an employer, in the same manner as if that employer were a person not an agent of the Crown.

Designation of
inspectors

7 The Minister may designate or appoint any person to be an inspector for the purposes of this Act.

Inspection of
premises

8(1) For the purpose of verifying compliance with this Act, an inspector may at any reasonable time enter and inspect any work space under the control of an employer.

(2) The person in charge of a work space entered by an inspector pursuant to subsection (1) and every person found in that place shall give the inspector all reasonable assistance to enable an inspector to carry out the inspector's duties and shall furnish the inspector with any information that the inspector has reasonable grounds to believe is required to carry out the inspection.

(3) No person shall wilfully obstruct an inspector in the performance of the inspector's duties under this section.

Offence and
penalties

9(1) Every employer who contravenes section 2, 3(2) or 8(3) is guilty of an offence and is liable on conviction

(a) for a first offence, to a fine not exceeding \$1000, and

(b) for a subsequent offence, to a fine not exceeding \$10 000.

(2) Every person who contravenes section 3(1) is guilty of an offence and is liable on conviction

(a) for a first offence, to a fine not exceeding \$50, and

(b) for a subsequent offence, to a fine not exceeding \$100.

(3) Every person who fails to provide reasonable assistance to an inspector pursuant to section 8(2) is guilty of an offence and is liable on conviction to a fine not exceeding \$1000.

Employee
acting in good
faith

10(1) No employer shall

- (a) dismiss or threaten to dismiss an employee,
- (b) discipline or suspend an employee,
- (c) impose any penalty upon an employee, or
- (d) intimidate or coerce an employee,

for the sole reason that an employee acting in good faith, has reported or proposes to report a contravention or possible contravention of this Act.

(2) An employer who contravenes subsection (1) is guilty of an offence and liable upon conviction to a fine not exceeding \$5000.

Crown Bound

11 This Act binds the Crown.

Coming into
force

12 This Act comes into force 6 months after the day it receives Royal Assent.