

1997 BILL 205

---

First Session, 24th Legislature, 46 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 205

**PROTECTION FROM SECOND-HAND SMOKE  
IN PUBLIC BUILDINGS ACT**

---

---

MRS. FRITZ

---

---

First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

---

---

*Bill 205*  
*Mrs. Fritz*

## **BILL 205**

1997

### **PROTECTION FROM SECOND-HAND SMOKE IN PUBLIC BUILDINGS 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 by an employer;
- (c) "employer" means
  - (i) an employer as defined in the *Public Service Employee Relations Act*,
  - (ii) the Legislative Assembly,
  - (iii) the Legislative Assembly Office,
  - (iv) any officer 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) "officer of the Legislature" means the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner, or the Information and Privacy Commissioner;
- (g) "smoke" means to smoke, hold or otherwise have control over an ignited tobacco product;
- (h) "tobacco product" means any product manufactured wholly or partly from tobacco and intended for use by smoking;
- (i) "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.

Duty of employer

**(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.

Proceedings  
against Crown

**5** 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

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

Inspection of  
premises

**7(1)** Subject to subsection (4), an inspector may at any reasonable time enter and inspect any work space under the control of an

employer for the purpose of verifying compliance with this Act.

(2) The person in charge of a work space and every person found in that place shall give an inspector who enters that work space pursuant to subsection (1) all reasonable assistance to enable an inspector to perform his duties and shall furnish the inspector with any information that he 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.

(4) Notwithstanding any other provision of this Act, before inspecting the Legislature Building or its precincts, an inspector shall first obtain the permission of the Speaker.

Offence and penalties

**8(1)** Every employer who contravenes section 2, 3(2) or 7(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 7(2) is guilty of an offence and is liable on conviction to a fine not exceeding \$1000.

Employee acting in good faith

**9(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.

regulations

**10(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.

(3) The Special Select Standing Committee of the Assembly on Members' Services may order that any regulation be inapplicable to, or be varied in respect of, the Legislative Assembly Office or the Legislative Assembly.

(4) On the recommendation of an officer of the Legislature, the Select Standing Committee on Legislative Offices may order that any regulation be inapplicable to, or be varied in respect of, the office of that officer.

Crown Bound

**11** This Act binds the Crown.

### Coming Into Force

Coming into force

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