

1998 BILL 47

Second Session, 24th Legislature, 47 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 47

**PROTECTION FROM SECOND-HAND SMOKE IN
PUBLIC BUILDINGS AMENDMENT ACT, 1998**

MRS. FRITZ

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 47
Mrs. Fritz

BILL 47

1998

PROTECTION FROM SECOND-HAND SMOKE IN PUBLIC BUILDINGS AMENDMENT ACT, 1998

(Assented to _____, 1998)

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

Amends SA
1997 cP-19.7

1 The *Protection from Second-hand Smoke in Public Buildings Act* is amended by this Act.

2 Section 1 is amended

(a) by repealing clauses (a) to (f) and substituting the following:

- (a) “designated Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (b) “designated smoking room” means an enclosed room that is designated as a smoking room under section 3(2);
- (c) “employee cafeteria” means an eating establishment operated under a lease, contract or other arrangement with the Crown or a Provincial corporation, as the case may be, primarily for the use of persons working in the public building;
- (d) “officer of the Legislature” means the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner or the Information and Privacy Commissioner;
- (e) “Provincial corporation” means a Provincial corporation as defined in section 1(1)(n)(i) of the

Explanatory Notes

1 Amends chapter P-19.7 of the Statutes of Alberta, 1997.

2 Section 1 presently reads in part:

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 Office,*
 - (iii) any officer of the Legislature, and*
 - (iv) 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 6;*

Financial Administration Act, but does not include a body referred to in section 2(5) of that Act;

- (f) “public building” means an enclosed building or structure or any portion of an enclosed building or structure
 - (i) owned by the Crown, even if the building or structure or that portion of it is occupied by persons not employed by the Crown,
 - (ii) leased to the Crown, but only that portion of the building or structure leased to the Crown, or
 - (iii) owned by a Provincial corporation, but only that portion of the building or structure occupied by persons employed by the Crown or a Provincial corporation,

but does not include

- (iv) a correctional institution as defined in the *Corrections Act*,
- (v) a building or structure or portion of a building or structure leased to a person, other than the Crown or a Provincial corporation, for use for a commercial purpose,
- (vi) a building or structure or portion of a building or structure used as a living accommodation, bar, lounge or retail store or as a restaurant other than an employee cafeteria, and
- (vii) any other enclosed building or structure or portion of an enclosed building or structure exempted by the regulations;

(b) by repealing clause (i).

3 Sections 2 and 3 are repealed and the following is substituted:

Prohibition
against
smoking

3(1) No person shall smoke in a public building except in a designated smoking room.

(2) A Minister, in respect of a public building occupied by persons under the administration of that Minister or occupied by employees of a Provincial corporation under the responsibility of that Minister, in accordance with the

- (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;*
- (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 correctional institution as defined in the Corrections Act or a restaurant, bar, lounge, tavern or retail store devoted solely to the sale of tobacco products.*

3 Sections 2 and 3 presently read:

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 in any work space under the control of the employer other than rooms normally occupied by non-smokers.

policies and guidelines referred to in section 10 may designate enclosed rooms, other than rooms normally occupied by non-smokers, as smoking rooms.

(3) No room may be designated as a smoking room under subsection (2) until after the joint work site health and safety committee appointed pursuant to the *Occupational Health and Safety Act* in respect of a work place has had an opportunity to respond to the proposed designation or, if there is no such committee, the persons employed in that work place have been given such an opportunity.

(4) Notwithstanding subsections (2) and (3), the Special Select Standing Committee of the Assembly on Members' Services may designate rooms for smoking in those portions of the Legislature Building or its precincts under the authority of the Legislative Assembly and the Legislative Assembly Office.

(5) The designated Minister may act under subsection (2) with respect to those portions of the Legislature Building or its precincts that are not under the authority of the Legislative Assembly and the Legislative Assembly Office.

(6) The designated Minister may delegate to other Ministers, to officers of the Legislature and to the leaders of opposition parties the authority to act under subsection (2) with respect to those portions of the buildings referred to in subsection (5) that are occupied by persons under those persons' administration.

4 Sections 5, 6 and 7 are repealed.

(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.

(7) Notwithstanding any other provision of this section, the Special Select Standing Committee of the Assembly on Members' Services may designate rooms for smoking in those portions of the Legislature Building or its precincts under the authority of the Legislative Assembly and the Legislative Assembly Office.

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.

4 Sections 5, 6 and 7 presently read:

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.

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

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

5 Sections 8, 9 and 10 are repealed and the following is substituted:

Offences and penalties	<p>8 Every person who contravenes section 3(1) is guilty of an offence and is liable</p> <p>(a) for a first offence, to a fine not exceeding \$100, and</p> <p>(b) for a subsequent offence, to a fine not exceeding \$250.</p>
Guidelines	<p>9 The designated Minister shall make policies and guidelines respecting the designation of smoking rooms and generally may make policies and guidelines to carry out the purposes of this Act.</p>
Regulation	<p>10 The Lieutenant Governor in Council may, on the recommendation of a Minister referred to in section 3(2), make regulations exempting a public building or a portion of a public building from the application of this Act.</p>

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.

5 Sections 8, 9 and 10 presently read:

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.

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.

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:

6 The following is added after section 12:

Transitional

12.1 With respect to public buildings or portions of public buildings occupied by persons other than employees of the Crown or a Provincial corporation under a lease, contract or other arrangement with the Crown, this Act applies to those public buildings or those portions where the lease, contract or other arrangement commences or is renewed on or after January 1, 1999.

(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.

6 Transitional.