

2005 Bill 201

First Session, 26th Legislature, 54 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 201

SMOKE-FREE PLACES ACT

MR. RODNEY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 201

2005

SMOKE-FREE PLACES ACT

(Assented to _____, 2005)

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

Definitions

1 In this Act,

- (a) “group living facility” means
 - (i) a facility for the long-term care of veterans,
 - (ii) a nursing home under the *Nursing Homes Act*,
 - (iii) a facility as defined under the *Mental Health Act*, or
 - (iv) a residential facility for adults only licensed under the *Social Care Facilities Licensing Act*;
- (b) “hotel” includes an inn, a guesthouse and a bed-and-breakfast facility;
- (c) “licensed premises” means licensed premises as defined under the *Gaming and Liquor Act* including an outdoor eating or drinking area that is part of or operated in conjunction with the premises;
- (d) “manager” means an employer or other person who, directly or indirectly, controls, directs or is responsible for a place or who controls the activities in the place;
- (e) “public place” means all or any part of a building, structure or other enclosed area to which members of the public have

access as of right or by express or implied invitation including

- (i) the common areas of a multi-unit residential facility, including patios, pools, other recreation areas and enclosed parking garages,
 - (ii) a group living facility,
 - (iii) an outdoor bus or taxi shelter,
 - (iv) licensed premises,
 - (v) a restaurant,
 - (vi) a hotel;
- (f) “public vehicle” means a bus, taxi or other vehicle that is used to transport members of the public for a fee;
- (g) “restaurant” includes a coffee shop, cafeteria, sandwich stand, food court, any other eating establishment and an outdoor eating area that is part of or operated in conjunction with the restaurant;
- (h) “smoke” means to smoke, hold or otherwise have control over a lit tobacco product;
- (i) “tobacco product” means a product manufactured from tobacco and intended to be smoked;
- (j) “workplace” includes reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles;
- (k) “work vehicle” means a vehicle owned or leased by an employer and used by employees during the course of their employment.

Exclusions

2(1) Nothing in this Act affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies.

(2) This Act does not apply to a building, structure or vehicle, or a part of a building or structure, that is used as a private residence.

Smoking prohibited

3 No person shall smoke in the following places:

- (a) a public place;
- (b) a workplace;
- (c) a public vehicle.

Private residence

4(1) Subject to subsection (2), a private residence is a workplace if a home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence.

(2) Only that part of a private residence in which the business is operated is a workplace for the purposes of this Act.

Exceptions

5(1) An in-patient or resident of a group living facility may smoke in a separate room in the facility if the room

- (a) is designated as a smoking room by the manager,
- (b) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking is prohibited under this Act,
- (c) has a separate ventilation system, and
- (d) conforms to any requirements prescribed by the regulations.

(2) A registered guest, and a person invited by the guest, may smoke in a guest room of a hotel if the guest room

- (a) is designed primarily as sleeping accommodation,
- (b) is designated as a smoking room by the manager,
- (c) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking is prohibited under this Act,
- (d) has a separate ventilation system, and
- (e) conforms to any requirements prescribed by the regulations.

Duties of managers

6 The manager of a place where smoking is prohibited under this Act must not permit a person to smoke in that place.

Signs

7(1) The manager of a place where smoking is prohibited under this Act must ensure that signs indicating that smoking is prohibited are posted and continuously displayed in accordance with the regulations.

(2) The manager of a place where smoking is permitted under section 5 must ensure that signs indicating that smoking is permitted are posted and continuously displayed in accordance with the regulations.

(3) No person other than a manager or a person acting under the manager's instructions shall remove, alter, deface, conceal or destroy a sign that is posted or displayed under this section.

Ashtrays

8 A manager of a public place or workplace must not permit ashtrays or similar receptacles to be located in a part of the place where smoking is prohibited under this Act.

Offences

9(1) A person who contravenes a provision of this Act is guilty of an offence.

(2) In describing an offence respecting smoking by a person in a place where smoking is prohibited under this Act, it is not necessary to specify the kind, brand or name of the tobacco product used in the offence.

(3) In a prosecution under this Act for smoking in a place where smoking is prohibited, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product smoked.

(4) In a prosecution under this Act, the justice trying the case may, in the absence of evidence to the contrary, infer that the product smoked was a tobacco product from the fact that a witness describes it by a name that is commonly used to describe a tobacco product.

Regulations

- 10** The Lieutenant Governor in Council may make regulations
- (a) designating a place as a public place;
 - (b) designating a place as a group living facility;
 - (c) designating a place as a workplace;
 - (d) respecting signs under section 7;
 - (e) respecting the appointment of inspectors and the powers and duties of inspectors;
 - (f) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

Municipal by-laws

- 11** A by-law made under the *Municipal Government Act* applies to supplement this Act if the effect of the by-law is to protect non-smokers from tobacco smoke in a place that is not referred to by this Act.

Crown bound

- 12** This Act binds the Crown.

Repeal

- 13** The *Protection from Second-hand Smoke in Public Buildings Act* is repealed.

Commencement

- 14** This Act comes into force on Proclamation.